

**NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION
REVIEW COMMITTEE MEETING**

OCTOBER 30-31, 2010

SARASOTA, FL

VOLUME 2

SATURDAY, OCTOBER 31, 2009

**NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION
REVIEW COMMITTEE MEETING**

8:30 a.m.

Saturday, October 31, 2009

Bayfront Community Center

Sarasota, FL

COMMITTEE MEMBERS PRESENT:

Mr. Dan Monroe, Acting Chair

Ms. Sonya Atalay

Ms. Donna Augustine

Mr. Eric Hemenway

Mr. Mervin Wright, Jr.

Ms. Rosita Worl

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1 **CALL TO ORDER**

2 DAN MONROE: Good morning, everyone. If you
3 will stand, we will have an invocation by Mr. Bobby
4 C. Billie.

5 **INVOCATION**

6 BOBBY C. BILLIE: I don't know if some of you
7 don't know me, but I'm from the Seminole Nation of
8 this country, and I welcome you to come to my land.
9 It used to be beautiful but nothing but concrete
10 over and so sad to see. In our way, we always see
11 God's creation still continue. That make us happy.
12 But there's something else take place, and we sad
13 to see. In your ways you say you think it's
14 beautiful to you but to us sad to see, into the
15 future, all God's creations going to be going.
16 That's what most indigenous people pray every
17 morning, so that's what I'm going to do.

18 (Native American language.)

19 When we get together today I'm asking that the
20 Creator take care of us today because a lot of
21 times that's been done in the past, it's wrong.
22 Hopefully we did something that's done better
23 today. We pray for us today. Thank you.

24 DAN MONROE: Thank you.

25 We will begin with a series of requests for

1 recommendations regarding agreement for the
2 disposition of culturally unidentifiable human
3 remains in the possession of the University of
4 Colorado Museum, and may we have Jan Bernstein,
5 Stephen Lekson, and Terry Knight. And if you would
6 all begin by introducing yourselves, and then I
7 will leave it to you as to who will take the lead.

8 **SIX REQUESTS FOR RECOMMENDATION REGARDING AN**
9 **AGREEMENT FOR THE DISPOSITION OF CULTURALLY**
10 **UNIDENTIFIABLE HUMAN REMAINS IN THE POSSESSION OF**
11 **THE UNIVERSITY OF COLORADO MUSEUM, CO**
12 **INTRODUCTIONS**

13 STEPHEN LEKSON: My name is Steve Lekson. I'm
14 the Curator of Anthropology at the Museum of
15 Natural History at the University of Colorado in
16 Boulder, Colorado. Would you like to introduce
17 yourselves or should I – yes, please.

18 JAN BERNSTEIN: Good morning. I'm Jan
19 Bernstein, a NAGPRA consultant.

20 CHRISTINA CAIN: I'm Christina Cain, the
21 Collections Manager for Anthropology at the
22 University of Colorado Museum.

23 DAN MONROE: Thank you.

24 **PRESENTATIONS**

25 STEPHEN LEKSON: We'd like to thank you very

1 much for allowing us to present today, and we'll
2 thank you in advance for your advice and direction,
3 whatever that might be, because we can certainly
4 use some help in this situation. Our NAGPRA
5 activities at the museum have moved along fairly
6 successfully – I don't know if successfully is the
7 right word, but a lot of people have gone home.

8 We have six individual cases – we have six
9 cases, we'll call them collections, which is a cold
10 word, six collections of culturally unidentified
11 human remains that we would like to discuss today.
12 So there's actually six individual requests that
13 we're going to make.

14 Our museum and the university are over a
15 hundred years old, and in that time we have a
16 history – excuse me, a history of research and
17 collecting, unfortunately collecting human remains,
18 from the U.S. West, from the Southwest, from the
19 Plains, the Great Basin, and of course the Rocky
20 Mountains. And that's the area in which both the
21 anthropology department and the museum have
22 specialized over the years. We haven't gone out of
23 the country much. We've kind of stayed in that
24 region. Over a hundred years the museum has
25 accumulated 635 sets of human remains. And I'd

1 like to go very briefly through our NAGPRA history
2 and there's a reason for this for how we arrived at
3 our current situation.

4 We started with the largest and the best-
5 documented collections and that we would have the
6 most and be able to say the most about from
7 southwest Colorado and consulted with a number of
8 tribes over that, and then moved to the Plains
9 where we had a number of human remains from the
10 eastern plains of Colorado, and then human remains
11 from northwestern Colorado and human remains from
12 southern Arizona. This was made possible by five
13 grants from NAGPRA, which we thank you all very
14 much. It's allowed us to move forward and
15 repatriate, culturally affiliate and repatriate 360
16 sets of human remains, with 17 more where we have
17 the Notice of Inventory Completion in and
18 anticipate claims for those very quickly.

19 In the course of those consultations we talked
20 to 82 different tribes and consulted with 82
21 different tribes, and 56 of those consultations
22 were face to face, mostly bringing people to
23 Boulder to see the collections or traveling to
24 nations and reservations. Twenty-six of those
25 consultations were by letter but always followed up

1 by phone. And the 56 face-to-face consultations,
2 many of those were multiple, and we would talk to –
3 obviously to concerned tribes in each of these
4 areas.

5 The reason I bring this up is that for each of
6 those consultations we would discuss a region,
7 southwest Colorado or the Plains or northwest
8 Colorado. We would also discuss the collections
9 that we have that have very little geographic
10 information, the culturally – you know, which we're
11 going to present as our first collection of
12 culturally unidentified. So we discussed those
13 with every one of those tribes. And initially save
14 for the southwest Colorado, we discussed it with
15 the tribes, and Jan would walk people through, you
16 know, here's things you could do right now if you
17 want to. And I would say, please wait – I mean,
18 talk to the tribes, say do what you want to do, but
19 maybe we should please wait until we talk to all
20 these other tribes from around the region about
21 these potentially culturally unidentified human
22 remains, which the tribes agreed that was probably
23 a good idea.

24 So there are six collections. One of them is
25 fairly sizable, and the other five are from one to

1 five individuals each. I'll just start in, if
2 that's okay.

3 DAN MONROE: Yes.

4 **REQUEST 1: NO GEOGRAPHIC LOCATION**

5 STEPHEN LEKSON: The first is human remains
6 with no geographic data, and it's 235 sets of human
7 remains. We feel confident that they are from our
8 region and they are Native American. And we've had
9 a university osteologist look at those sets of
10 human remains and weed out a few that were not
11 Native American. But we're pretty sure that
12 they're Native American.

13 And then because of the history of the museum
14 and the history of the anthropology department, we
15 really believe that they are from the U.S. West.
16 Our people – we didn't bring people back from other
17 parts of the world, and we have a few – and this is
18 something that actually makes me more confident in
19 saying it, we have a few remains from the eastern
20 United States, and we know that they're from the
21 eastern United States. They have odd collection
22 histories. I mean, they came into the museum in
23 strange ways. So we're as confident as we can be –
24 we can't say with lead pipe certainty – that those
25 235 sets of human remains with no geographic data

1 do come from the West. They are Native American.

2 And the Ute Mountain Ute Tribe and Isleta
3 Pueblo have both requested disposition on that.
4 Isleta Pueblo, Valentino Jaramillo cannot be with
5 us today. Jan talked to him last week, okay. And
6 unfortunately Ute Mountain Ute can't be with us
7 today, but I talked to Mr. Terry Knight of Ute
8 Mountain Ute Tuesday at some length, because I had
9 some questions about how this was going to work
10 out, he had some questions, and he gave me some
11 talking points. One of which was to – he said to
12 remind the committee of the Colorado protocol for
13 culturally unidentified human remains from state
14 and private lands, which I believe this committee
15 has reviewed that protocol several times that was
16 finally agreed upon. Many of the tribes that we
17 consulted with were parties to that protocol, not
18 all of them but many were.

19 In that protocol that was agreed to by –
20 actually I don't know the total number of tribes
21 that were involved. You probably know more about
22 it than I do. The protocol states that the
23 Southern Ute or Ute Mountain Ute shall act as lead
24 tribe in all repatriations and transfers of
25 culturally unidentifiable Native remains and

1 associated funerary objects. And of course, this
2 pertains to remains from state and private lands,
3 but Mr. Knight wanted me to read this language so
4 you'd realize – or not realize, but remind you that
5 this protocol exists and other tribes – and this is
6 certainly what we're getting in our consultations,
7 other tribes are comfortable with the Utes taking
8 the lead, the Ute Mountain Ute taking the lead on
9 this.

10 We contacted all 82 tribes on this collection
11 and on the requests for disposition, and we've had
12 no objections from any tribes and support from
13 several. That's the first big collection, 235 with
14 no geographic data. And I'm just going to walk
15 through this.

16 **REQUEST 2 AND 3: GRAND COUNTY, UT/MESA COUNTY, CO**
17 **AND MOFFAT COUNTY, CO**

18 STEPHEN LEKSON: Our second collection – and
19 the next five collections are much smaller, but
20 they have better information on them, two
21 collections actually from northwest Colorado, one
22 from Grand County and one from Moffat County, from
23 Grand County five individuals from the Grand
24 Junction area from university excavations. And
25 from Moffat County, two individuals from Dinosaur

1 National — what is now Dinosaur National Monument.
2 We consulted with a number of tribes mainly from
3 the north and the west, the Shoshone and the Paiute
4 and Ute Tribes, whose territory that traditionally
5 was on that, and with a number of Pueblo tribes,
6 the Southwestern tribes. And in that course of
7 those consultations, the tribes actually requested
8 that we make those culturally unidentified, and
9 fine. It makes a lot of — I mean it makes sense
10 from our perspective as well.

11 **REQUEST 4: BOULDER COUNTY, CO**

12 STEPHEN LEKSON: Moving along, the fourth set —
13 okay, the first was the 235 no geographic data.
14 Then Grand County and Moffat County, those two sets
15 of collections were from northwest Colorado. Then
16 we have two individuals from Boulder County, which
17 we know absolutely nothing about except that
18 they're from Boulder County. And you know, to the
19 best of our knowledge they're Native American, but
20 they too, we would request that they're culturally
21 unidentified.

22 **REQUEST 5: WASHINGTON COUNTY, CO**

23 STEPHEN LEKSON: The fifth set is from the
24 Claypool Site, which is a very old and ancient what
25 archaeologists would call Paleo-Indian site in

1 Washington County, Colorado, which is north-central
2 Colorado, I believe. Now for those smaller
3 collections I've just discussed, Grand County,
4 Moffat County, Boulder County and Washington
5 County, the Ute Mountain Utes have requested
6 disposition and Isleta is not involved in that.
7 Isleta only wants to be involved with the 235 with
8 no geographic data. And that's very - that's
9 important to state.

10 **REQUEST 6: CONVERSE COUNTY, WY**

11 STEPHEN LEKSON: And the final collection is
12 from a site called Little Box Elder, which is not
13 in Colorado. It's in Wyoming, in Converse County,
14 Wyoming. And the Northern Arapaho Tribe - and do
15 we have Darlene Conrad on the phone - I should
16 have -

17 DARLENE CONRAD: Yes, I'm here.

18 STEPHEN LEKSON: Oh hi, I'm very sorry. I
19 should have introduced you too right at the
20 beginning, Darlene Conrad from the Northern Arapaho
21 Tribe - my apologies, Darlene - has requested
22 disposition of the Little Box Elder - one set of
23 human remains from Little Box Elder. And again my
24 apologies, Ms. Conrad, I should have acknowledged
25 you earlier.

CLOSING PRESENTATION

STEPHEN LEKSON: So that's our six sets of collections for which we would like your recommendations and your advice and your guidance. We hope you can recommend for disposition to the tribes that we've listed or that have stepped up and requested disposition. And, Jan, is there anything that I've forgotten there?

JAN BERNSTEIN: No, just we're in tab 6 of your binder, under tab 6, and the first one, the unknown geographic location, those are under Section 2, and that's the first disposition agreement that we would like your recommendation on. And Christy Cain has some additional information she'll be passing out to you. We received a letter of support from the Susanville Rancheria. They took that extra step to write a support – sign on in support of disposition of several of the remains, and we have an updated status report on who requested disposition and who wrote in to support it, took that extra step to support it. And then we have Steve's original signature pages for you as well, which weren't included in your original binder.

REVIEW COMMITTEE QUESTIONS AND DISCUSSION

1 DAN MONROE: Thank you very much. Members of
2 committee, questions?

3 DONNA AUGUSTINE: Not a question, but would you
4 like me to comment later or now? Okay. Well, yes,
5 maybe a question, on the one from Boulder,
6 Colorado, did you say the tribes weren't going to
7 take the lead on -

8 JAN BERNSTEIN: We were asked to present this
9 by group and just do unknown geographic location
10 first and then move on to Boulder, but the tribe
11 that did request disposition of Boulder was the Ute
12 Mountain Ute Tribe.

13 DONNA AUGUSTINE: Okay. But it's just - it's
14 quite amazing the work that you've done to do such
15 an outreach to go all over and to go to the various
16 tribes, it's - it could almost - you know, it could
17 serve as a good example for other museums where
18 they have unidentified human remains. And it's
19 just amazing when you talk about the scope of how
20 many places you've gone to and you've contacted all
21 the tribes, and I just thought I would commend you
22 on that.

23 SONYA ATALAY: I have a question for the -
24 under section 2 that we're speaking of right now,
25 could you - the unknown geographic location, you

1 mentioned that you were able to remove some of the
2 remains from your collection because you knew that
3 they didn't quite fit because of the collection
4 practices. So I'm wondering if you could speak a
5 little bit about the collection practices, how you
6 feel confident that there's a pattern that these
7 are from the region that we're talking about.

8 STEPHEN LEKSON: The remains that were removed
9 during the osteological analysis were remains that
10 were given to us by the anthropology department.
11 When the law was passed, the anthropology
12 department transferred all the remains that it
13 thought might be Native American to the museum for
14 the museum to deal with. Apparently they did that
15 in some haste, and there were several sets of
16 remains where the osteologist could say no, you
17 know, this - without getting too graphic or too
18 grim they could tell that this was from one of the
19 teaching collections. It was a medical school
20 cadaver. So there were a few - I think it was some
21 hasty work back in the late '80s - or excuse me,
22 late '90s, from the anthro department. But it was
23 - that was done - those were totally undocumented,
24 these are things that we don't have geographic
25 information on, so it wasn't done from any museum

1 documentation. It wasn't done from anthropology
2 department documentation. It was done by the
3 osteologists.

4 SONYA ATALAY: So are you saying then you have
5 no documentation at all about where the remains in
6 the unknown geographic location, where they came
7 from, no records whatsoever?

8 STEPHEN LEKSON: Most of them that is the case,
9 yes. Our arguments are from the history of the
10 anthropology department and the history of the
11 museum, that historically for a hundred years we've
12 worked in those areas, and when the department did
13 work outside, you know, they worked in Egypt for a
14 little while. I mean, we know where those
15 collections are, so yes.

16 DAN MONROE: Yes.

17 ROSITA WORL: I was trying to total how many
18 human remains we are talking about. I got the 235,
19 the 5, the 5, the 2 and the 2, and then I lost
20 count or I didn't see those. And I'm wondering -
21 the question that I have, were there any associated
22 or unassociated funerary remains - objects that are
23 a part of it?

24 STEPHEN LEKSON: Yes, there are. There are
25 associated funerary objects with the 235 - with

1 some of the individuals in the 235, including a
2 soil sample – okay, 10 lots of associated funerary
3 objects. And there are associated funerary objects
4 also with Claypool, I believe.

5 JAN BERNSTEIN: They're listed in the
6 disposition agreements that you have in your binder
7 behind the list of tribes. You'll see the actual
8 disposition agreement, and in that first paragraph
9 it lists the number of remains and the number of
10 funerary objects.

11 DAN MONROE: Can you give us some additional
12 information on the remains from the Little Box
13 Elder Site?

14 STEPHEN LEKSON: Little Box Elder is – I've
15 never been there but apparently it's a cave or an
16 overhang and was excavated as a paleontological
17 site because it has some very old fauna and very
18 old types of animals in it. Somewhere up near the
19 top they also found one human tooth, and in talking
20 to the paleontologists they said that could be
21 anywhere from yesterday to millions of years old.
22 So we have geographic specificity. I mean, we know
23 where the site is, but we don't know where in terms
24 of time that tooth is. But clearly it's Native
25 American. I mean, it would be Native American.

1 It's not yesterday literally. I was being
2 facetious in a sense, but yeah, they're pretty
3 confident that it's Native American.

4 DAN MONROE: Okay. Committee wish to act? And
5 let's deal with these on one - case-by-case basis,
6 beginning with the 235 individuals.

7 **REVIEW COMMITTEE MOTIONS**

8 **REQUEST 1: UNKNOWN GEOGRAPHIC LOCATION**

9 ROSITA WORL: Mr. Chair, and these are from the
10 unidentified, unknown geographic location.
11 Mr. Chair, I would move that the NAGPRA Committee
12 recommend to the Secretary of Interior the
13 disposition of 235 culturally unidentifiable human
14 remains in the possession of the Colorado Museum to
15 the tribes who are party to that disposition
16 agreement.

17 DAN MONROE: Thank you. Is there a second?

18 SONYA ATALAY: I second.

19 DAN MONROE: Second. Further discussion? All
20 in favor say aye.

21 SONYA ATALAY: Aye.

22 DONNA AUGUSTINE: Aye.

23 ERIC HEMENWAY: Aye.

24 DAN MONROE: Aye.

25 ROSITA WORL: Aye.

1 MERVIN WRIGHT, JR.: Aye.

2 DAN MONROE: Opposed? Motion carries.

3 **REQUEST 2: GRAND COUNTY, UT AND MESA COUNTY, CO**

4 DAN MONROE: Let's now move to the Grand
5 County, northwest Colorado, is that right?

6 STEPHEN LEKSON: Yes, sir.

7 DAN MONROE: Five individuals.

8 STEPHEN LEKSON: And two lots of funerary
9 objects.

10 DAN MONROE: Yes. Is there a proposed motion?

11 ERIC HEMENWAY: I make a motion that the
12 Secretary of Interior recommend a disposition for
13 these sets of remains from the Grand County, Utah
14 and Mesa County, Colorado site - am I doing it
15 correctly? - and their funerary objects.

16 DAN MONROE: Is there a second?

17 MERVIN WRIGHT, JR.: Second.

18 DAN MONROE: Moved and seconded. Any further
19 discussion? All in favor signify by saying aye.

20 SONYA ATALAY: Aye.

21 DONNA AUGUSTINE: Aye.

22 ERIC HEMENWAY: Aye.

23 DAN MONROE: Aye.

24 ROSITA WORL: Aye.

25 MERVIN WRIGHT, JR.: Aye.

1 DAN MONROE: Opposed?

2 Motion carries.

3 **REQUEST 3: MOFFAT COUNTY, CO**

4 DAN MONROE: The Moffat Colorado site.

5 ROSITA WORL: That's two individuals -

6 STEPHEN LEKSON: No objects.

7 ROSITA WORL: - no objects.

8 DAN MONROE: Is there a motion?

9 MERVIN WRIGHT, JR.: I make a motion that the
10 Secretary of Interior approve this disposition of
11 these two sets of remains from Moffat County.

12 DAN MONROE: Thank you. Is there a second?

13 ERIC HEMENWAY: I second.

14 DAN MONROE: Moved and seconded. Any further
15 discussion? All those in favor say aye.

16 SONYA ATALAY: Aye.

17 DONNA AUGUSTINE: Aye.

18 ERIC HEMENWAY: Aye.

19 DAN MONROE: Aye.

20 ROSITA WORL: Aye.

21 MERVIN WRIGHT, JR.: Aye.

22 DAN MONROE: And opposed?

23 Motion carries.

24 **REQUEST 4: BOULDER COUNTY, CO**

25 DAN MONROE: The Boulder, Colorado site or

1 designation, two individuals, no funerary objects?

2 STEPHEN LEKSON: No, there are funerary
3 objects, two pieces of cloth with one individual.

4 DAN MONROE: Is there a motion?

5 ERIC HEMENWAY: I'll make a motion that the
6 Secretary of Interior recommend disposition for the
7 two sets of remains and funerary objects from the
8 Boulder, Colorado – Boulder County, Colorado site.

9 DAN MONROE: Second?

10 SONYA ATALAY: Second.

11 DAN MONROE: Further discussion? All in favor
12 say aye.

13 SONYA ATALAY: Aye.

14 DONNA AUGUSTINE: Aye.

15 ERIC HEMENWAY: Aye.

16 DAN MONROE: Aye.

17 ROSITA WORL: Aye.

18 MERVIN WRIGHT, JR.: Aye.

19 DAN MONROE: Opposed?

20 Motion carries.

21 **REQUEST 5: WASHINGTON COUNTY, CO**

22 DAN MONROE: The Claypool Site, three
23 individuals and any –

24 JAN BERNSTEIN: No.

25 DAN MONROE: No associated funerary objects.

1 Is there a motion?

2 SONYA ATALAY: I make a motion that the Review
3 Committee make a recommendation to the Secretary of
4 the Interior for disposition of these remains and
5 any associated funerary objects.

6 DAN MONROE: Is there a second?

7 DONNA AUGUSTINE: I'll second it.

8 DAN MONROE: Moved and seconded. Any further
9 discussion?

10 All in favor signify by saying aye.

11 SONYA ATALAY: Aye.

12 DONNA AUGUSTINE: Aye.

13 ERIC HEMENWAY: Aye.

14 DAN MONROE: Aye.

15 ROSITA WORL: Aye.

16 MERVIN WRIGHT, JR.: Aye.

17 DAN MONROE: Opposed?

18 Motion carries.

19 **REQUEST 6: CONVERSE CO, WY**

20 DAN MONROE: The Little Box Elder Site. Yes.

21 STEPHEN LEKSON: This is the Northern Arapaho
22 with Darlene on the phone. I'm not sure whether
23 she would want to say something.

24 DAN MONROE: Is — I'm not quite clear. The
25 Northern Arapaho are requesting these remains?

1 STEPHEN LEKSON: Yes, sir.

2 DAN MONROE: But have other tribes been
3 contacted?

4 JAN BERNSTEIN: Oh yes.

5 STEPHEN LEKSON: Yes.

6 DAN MONROE: Yes, okay great. Darlene would
7 you like to add comment?

8 DARLENE CONRAD: Yes, I would. My name is
9 Darlene Conrad, and I'm the THPO Officer for the
10 Northern Arapaho Tribe. And the CU Museum
11 approached our tribe regarding the remains at
12 Little Box Elder. And I discussed it with the
13 ceremonial Elders of the Arapaho Tribe, and they
14 made the decision that we should go ahead and
15 accept these human remains from Little Box Elder.
16 They are within our ancestral area. We would like
17 to repatriate them.

18 DAN MONROE: Very good. Thank you.

19 Is there a motion?

20 DONNA AUGUSTINE: I'd like to make a motion
21 that the Secretary of Interior recommend the
22 disposition on the remain at Little Box Elder Site
23 in Converse County, Wyoming.

24 DAN MONROE: Is there a second?

25 SONYA ATALAY: I second.

1 DAN MONROE: Moved and seconded. Any further
2 discussion?

3 All in favor say aye.

4 SONYA ATALAY: Aye.

5 DONNA AUGUSTINE: Aye.

6 ERIC HEMENWAY: Aye.

7 DAN MONROE: Aye.

8 ROSITA WORL: Aye.

9 MERVIN WRIGHT, JR.: Aye.

10 DAN MONROE: Opposed?

11 Motion carries.

12 Thank you very, very much. We appreciate all
13 of your work.

14 STEPHEN LEKSON: Thank you very much.

15 DAN MONROE: Next we have five requests for
16 recommendation regarding an agreement for the
17 disposition of culturally unidentifiable human
18 remains in the possession of the New York
19 University College of Dentistry, New York. And if
20 we could ask you to introduce yourselves and then
21 begin your testimony please.

22 **FIVE REQUESTS FOR A RECOMMENDATION REGARDING AN**
23 **AGREEMENT FOR THE DISPOSITION OF CULTURALLY**
24 **UNIDENTIFIABLE HUMAN REMAINS IN THE POSSESSION OF**
25 **NEW YORK UNIVERSITY COLLEGE OF DENTISTRY, NY**

INTRODUCTIONS AND OPENING STATEMENTS

LOU TERRACIO: I'm Lou Terracio. I'm the Dean for Research at New York University College of Dentistry.

LAUREN SIEG: My name is Lauren Sieg. I'm a NAGPRA Consultant. And we are also joined on the phone by a number of tribal representatives.

RAY STANDS: My name is Ray Stands. I represent the Great Basin Coalition. I'm with the — I'm the Cultural Coordinator for the Fallon Paiute-Shoshone Tribe of Fallon, Nevada.

DAN MONROE: Thank you, Ray.

LEO HENRY: I'm Chief Leo R. Henry, Tuscarora Nation.

DAN MONROE: Thank you.

ANDREA HUNTER: Andrea Hunter. I'm with the Osage Nation, Tribal Historic Preservation Officer.

DAN MONROE: Thank you.

JUNE CARPENTER: This is June Carpenter. I'm a NAGPRA Assistant with the Osage Nation.

DAN MONROE: Thank you.

LAUREN SIEG: And do we have Ms. Young with us?

LOU TERRACIO: No, not at the moment.

DAN MONROE: Very good. Thank you to all who are on the phone, and if you will begin please.

LOU TERRACIO

LOU TERRACIO: So good morning, Mr. Chair and members of the NAGPRA Review Committee. We thank you for the opportunity to appear before you today to request recommendations on the disposition of culturally unidentifiable remains currently held at New York University College of Dentistry. We're honored to appear before you with Dr. Andrea Hunter, Tribal Historic Preservation Officer of the Osage Nation, and June Carpenter, NAGPRA Assistant for the Osage Nation; Mr. Ray Stands, the Cultural Coordinator for the Fallon Paiute-Shoshone; the Honorable Chief Leo Henry from the Tuscarora Nation; and we hope to be joined by Ms. Wastewain Young, the Tribal Historic Preservation Officer for the Standing Rock Sioux. All of these representatives have partnered with us, the college, to put forward the request.

The tribes and the college are appearing before the committee today to request a recommendation on the disposition of Native American human remains from five states. The states are Arkansas, Florida, Nevada, New York and North Dakota. Each of these cases, the tribal representatives have expressed an interest in those

1 remains that were removed from the traditional
2 territory of their tribe. Tribal representatives
3 have explained that this interest comes from a
4 desire to take care of the spiritual needs of all
5 people who once lived in their territory. The
6 college has great respect for this sense of
7 custodial duty, and we support the tribes' requests
8 to take the remains home.

9 The college and tribal representatives are
10 here to answer any questions about the requests.
11 But because of limited time to hear these requests,
12 I'll keep this statement short and we'll move
13 forward. It's my understanding that we'll review
14 the requests in the following order. We'll start
15 with New York, then we will go to Arkansas, North
16 Dakota, Nevada, and finish up with Florida. And
17 I'll try to tell you what tab number that is as we
18 move through them. I want to thank you again for
19 the opportunity to appear before you today with our
20 colleagues from the Osage, Fallon Paiute-Shoshone,
21 Tuscarora, and Standing Rock Sioux Nations. We
22 hope that the committee will recommend the
23 disposition of these remains to the Osage,
24 Miccosukee, Fallon Paiute-Shoshone, Tuscarora, and
25 Standing Rock Tribes.

1 DAN MONROE: Thank you. So we will consider
2 these requests in the order that you just
3 recommended.

4 LOU TERRACIO: Thank you.

5 DAN MONROE: Beginning with New York, and are
6 there any additional comments that you may wish to
7 add from those who are on the phone?

8 **REQUEST 1: NIAGARA COUNTY, NY**

9 **PRESENTATION**

10 LEO HENRY: Yes, I'm Chief Leo Henry from the
11 Tuscarora Nation. We live in an area where Neutral
12 Indians were originally found and where their Peace
13 Queen once lived, and we request the remains be
14 returned to the Tuscarora Nation for burial in the
15 sacred way. We don't know what they was told when
16 they were buried, but we would ask the Creator to
17 continue their journey and take care of the remains
18 once they're replaced. We have received Neutral
19 Indian remains before from NAGPRA, and we would
20 like to obtain these remains that are held at the
21 New York University School of Dentistry. I hope
22 that you will move favorably in favor of the
23 Tuscarora Nation receiving these remains, and we
24 will return them to Mother Earth. Thank you.

25 DAN MONROE: Thank you, Mr. Henry.

1 Any other comments? Members of the committee,
2 how do you wish to proceed?

3 SONYA ATALAY: I actually have a question.

4 DAN MONROE: Yes, go ahead.

5 **REVIEW COMMITTEE QUESTIONS AND DISCUSSION**

6 SONYA ATALAY: This is tab number 11, is that
7 right?

8 LEO TERRACIO: This is tab number 11. I have
9 some additional information if you want that or
10 I'll answer your questions, whichever way.

11 SONYA ATALAY: My question is actually for the
12 tribal representative from the Tuscarora Nation who
13 is on the phone. I wonder if you could speak a
14 little bit about – and I read the documentation but
15 I think it's important to bring attention to this
16 in these kind of cases – a little bit about your
17 feelings that you should be the custodians although
18 you don't – you acknowledge that these aren't your
19 direct relatives but that you feel that you need to
20 be the custodians for these people who were buried.
21 And I wondered if you could speak a little bit
22 about that for us for the record.

23 LEO HENRY: These people resided within the
24 area where our reservation is now located. In
25 fact, our – where we would return these remains to

1 Mother Earth is probably within three-quarters of a
2 mile from where they had their villages set up.
3 And we honor those people and respect them as the
4 original people of the territory, and we would like
5 to return the remains to the same area that they
6 once lived in.

7 SONYA ATALAY: Thank you very much.

8 DAN MONROE: Thank you. Other questions?
9 How does the committee wish to proceed?

10 **REVIEW COMMITTEE MOTION**

11 SONYA ATALAY: I make a motion that the Review
12 Committee recommend to the Secretary of the
13 Interior a disposition of the remains in question
14 from New York.

15 DAN MONROE: Thank you. Is there a second?

16 DONNA AUGUSTINE: I'll second it.

17 DAN MONROE: Moved and seconded. Any further
18 discussion?

19 All in favor say aye.

20 SONYA ATALAY: Aye.

21 DONNA AUGUSTINE: Aye.

22 ERIC HEMENWAY: Aye.

23 DAN MONROE: Aye.

24 ROSITA WORL: Aye.

25 MERVIN WRIGHT, JR.: Aye.

1 DAN MONROE: Opposed?

2 Motion carries.

3 Thank you, Mr. Henry.

4 LEO HENRY: Thank you very much for your time
5 and patience, and we thank you for returning the
6 remains to their natural habitat.

7 DAN MONROE: Thank you.

8 DONNA AUGUSTINE: Thank you.

9 **REQUEST 2: BENTON COUNTY, AR**

10 **PRESENTATION**

11 LOU TERRACIO: So next is tab 9. This is from
12 Arkansas. I can provide some additional
13 information summary on that if you would like.

14 DAN MONROE: Please.

15 LOU TERRACIO: Okay. We're happy to be here
16 with the Osage Nation – as you know, June Carpenter
17 and Dr. Andrea Hunter are on the teleconference –
18 to request recommendation on disposal for remains
19 from Arkansas. The remains were removed from two
20 rock shelters in Benton County; Allred Bluff and
21 Salts Bluff Shelter 1. The remains represent three
22 individuals; two from Allred Bluff, one from Salts
23 Bluff. Forensic examination of the remains and
24 their archaeological context suggests that the
25 remains belong to Native American individuals.

1 The rock shelters are located in the northwest
2 corner of Arkansas. They line the Ozarks, which
3 extends through southern Missouri and into the
4 northeast corner of Oklahoma. The distinguishing
5 feature of the Ozark region is its abundance of
6 caves and rockshelters. The remains of Allred
7 Bluff and Salts Bluff Rockshelters date from the
8 Late Archaic Period and Early Woodlands Period,
9 between 2000 B.C. and 100 A.D. The first
10 archaeologist to excavate these rockshelters named
11 the people from this time Bluff Dwellers.

12 The remoteness of the region and the lack of
13 artifacts similar to these in nearby parts of the
14 Southeast and Midwest led archaeologists to
15 conclude that the people of the Ozarks lived in
16 relatively isolated existence and were slow to
17 adopt cultural innovations, changes found in
18 adjacent cultural areas. More recent
19 archaeological work, however, led to a new
20 interpretation. Current archaeological research
21 suggests the region was not used by one distinct
22 culturally isolated group. Instead the shelters in
23 the region were likely used by many different
24 groups of people from adjacent areas, specific
25 subsistence or other activities. The differences

1 in the material culture between the bluff dwellers
2 and adjacent regions may largely reflect
3 deferential preservation and task specialization.

4 As our colleagues in the Osage Nation Historic
5 Preservation Office will explain to you in more
6 detail, the northwest corner of Arkansas where
7 Benton County is located is part of the ancestral
8 territory of the Osage people. Osage ceded their
9 land to Arkansas, Missouri, and Oklahoma between
10 1808 and 1825. For a while, they retained hunting
11 rights in the region and their use of the Ozarks is
12 documented in early 19th Century records. The
13 current Osage reservation was established in
14 Oklahoma in 1872. The Osage maintain an interest
15 in and concern for the region that includes Allred
16 Bluff and Salts Bluff Rockshelters. It is their
17 concern for the spiritual well-being of the people
18 who inhabited this region that brings us to the
19 committee today.

20 The college respectfully requests that the
21 Review Committee recommend disposition of the
22 remains of these three individuals to the Osage
23 Nation. And if you'd like to ask Ms. Carpenter or
24 Dr. Hunter questions, they're available.

25 DAN MONROE: Yes, thank you.

1 Ms. Carpenter or Dr. Hunter, please add
2 comments if you have them.

3 JUNE CARPENTER: This is June Carpenter, the
4 NAGPRA assistant. I would like to thank the
5 committee for hearing our requests and to share a
6 little information about the history of the Osage
7 people in northwestern Arkansas. The Osage believe
8 that we were in this area for hundreds of years
9 since the time of our migration as a part of
10 (comment inaudible) from the Ohio Valley. The
11 first European encounter with the Osage was
12 recorded in southwest Missouri in 1673 by Louis
13 Joliet and Father Jacques Marquette. Throughout
14 the Historic Period, the Osage have (comment
15 inaudible), and their hunting territory extended
16 into Arkansas. In 1802, several thousand Osage had
17 moved into Arkansas, becoming the Arkansas Osages.

18 Because of our longevity in this region the
19 Osage Nation wishes to take responsibility for
20 human remains found in our ancestral homelands even
21 if their true cultural affiliation is unknown. The
22 Osage Nation requests this disposition of these
23 remains originating from northwestern Arkansas for
24 reburial. The Quapaw, who also had a presence in
25 Arkansas, support our request for disposition as

1 asserted in their support letter. Thank you.

2 DAN MONROE: Thank you. And Ms. Carpenter, do
3 you wish to add anything? Very good. Thank you.

4 How does the committee wish to proceed?

5 ROSITA WORL: Mr. Chair.

6 DAN MONROE: Yes.

7 **REVIEW COMMITTEE MOTION**

8 ROSITA WORL: I move that the NAGPRA committee
9 recommend to the Secretary of Interior the
10 disposition of three culturally unidentifiable
11 human remains in the possession of the New York
12 University College of Dentistry in New York to the
13 Osage.

14 DAN MONROE: Thank you. Is there a second?

15 SONYA ATALAY: I second.

16 ERIC HEMENWAY: Second.

17 DAN MONROE: It's been moved and seconded. Any
18 further discussion?

19 All in favor say aye.

20 SONYA ATALAY: Aye.

21 DONNA AUGUSTINE: Aye.

22 ERIC HEMENWAY: Aye.

23 DAN MONROE: Aye.

24 ROSITA WORL: Aye.

25 MERVIN WRIGHT, JR.: Aye.

1 DAN MONROE: Opposed?

2 Motion carries.

3 Thank you very much, Dr. Hunter and
4 Ms. Carpenter, and we appreciate your
5 participation.

6 JUNE CARPENTER: Thank you.

7 DAN MONROE: Let's move now to the North
8 Dakota.

9 **REQUEST 3: STUTSMAN COUNTY, ND**

10 **PRESENTATION**

11 LOU TERRACIO: Okay, so this can be found at
12 tab 8 in the books. I don't know if we have
13 Wastewain Young on the line or not. But so we can
14 – if it's okay, we'll just move forward.

15 DAN MONROE: Yes, please proceed.

16 LOU TERRACIO: The college is pleased to
17 request in conjunction with the Standing Rock Sioux
18 Tribe to request the disposition of the remains
19 from North Dakota. The remains belong to one
20 individual from Stutsman County, North Dakota.
21 Forensic examination suggests that the remains are
22 of Native American ancestry. The remains were
23 removed from an unknown site near Spiritwood Lake
24 in the east-central part of the state. At least 18
25 sites have been documented in this region. Most of

1 the archaeological material recovered from sites in
2 the region is from the Woodlands Period from
3 approximately A.D. 1 to A.D. 1400, although a small
4 amount of material dates to the Plains Village
5 tradition, which followed the Woodlands Period and
6 lasted into about A.D. 1600.

7 There is evidence for biological continuity in
8 the region during the Woodlands Period, but a
9 different biological profile is associated with
10 people of the ceding Plains tradition – Village
11 tradition. Given the absence of information
12 regarding the site or antiquity of the remains, the
13 identifiable earlier group to which they belong
14 cannot be actually determined.

15 A determination of cultural affiliation is
16 further complicated by the distinct populations
17 that inhabited the region during different time
18 periods. Historically eastern North Dakota was a
19 territory of the Sioux. Siouan oral tradition
20 holds that the Sioux originally lived in Mille Lacs
21 region but gradually moved westward to hunt
22 buffalo. Their entry into the region likely
23 occurred after A.D. 1500. In the mid-17th Century,
24 the territory of the Sioux encompassed eastern
25 North Dakota including Stutsman County. Historic

1 records suggest that the Sioux were the sole
2 occupants of the region by this time. The Upper
3 Yanktonai Sioux occupied the region of the
4 Spiritwood Lake region in the 18th and 19th
5 centuries. All Yanktonized territory was ceded to
6 the Sisseton-Wahpeton in 1868 in exchange for
7 reservation land in Lake Traverse and Devils Lake.
8 The Upper Yanktonai eventually settled at Devils
9 Lake, Standing Rock, and Fort Peck Reservations.
10 Today the Sioux maintain an interest in the
11 traditional lands in North Dakota.

12 The Standing Rock Sioux Tribe of North & South
13 Dakota has requested the remains from Spiritwood
14 region for reburial. This request has the support
15 of other tribes in the region and the College of
16 Dentistry. The college is seeking a recommendation
17 from the Review Committee and the Secretary for
18 disposition of this to the Standing Rock Sioux
19 Tribe.

20 DAN MONROE: Thank you.

21 Any questions? How would you like to proceed?

22 **REVIEW COMMITTEE MOTION**

23 MERVIN WRIGHT, JR.: Mr. Chairman, I'll make a
24 motion to recommend to the Secretary disposition on
25 the human remains from North Dakota to the Standing

1 Rock Sioux Tribes.

2 ROSITA WORL: Second.

3 DAN MONROE: It's been moved and seconded. Any
4 further discussion?

5 All in favor say aye.

6 SONYA ATALAY: Aye.

7 DONNA AUGUSTINE: Aye.

8 ERIC HEMENWAY: Aye.

9 DAN MONROE: Aye.

10 ROSITA WORL: Aye.

11 MERVIN WRIGHT, JR.: Aye.

12 DAN MONROE: Opposed?

13 Thank you. Let's move to the Nevada.

14 **REQUEST 4: CHURCHILL COUNTY, NEVADA**

15 **PRESENTATION**

16 LOU TERRACIO: Okay. So this is located at tab
17 7. The college is pleased to join Mr. Ray Stands,
18 who is on the phone, the Cultural Coordinator of
19 the Paiute-Shoshone Tribe of the Fallon Reservation
20 and Colony, to request a recommendation for
21 disposition of remains from Churchill County,
22 Nevada. The remains belong to one individual and
23 were removed from Lovelock Cave. Forensic
24 examination and archaeological information indicate
25 that the remains are Native American. There are no

1 funerary objects at the college.

2 The remains were discovered in a portion of
3 Lovelock Cave that had been disturbed by animals
4 sometime in the past. Based on other artifacts
5 found in the disturbed area, the remains are
6 estimated to be between 3,500 and 4,500 years old.
7 This corresponds to the earliest known use of that
8 cave. Several later occupation sequences have been
9 defined based on material found in the cave and
10 rock falls that separate layers of debris left in
11 the cave. The relation between these occupations
12 is not well-understood. At the time of contact,
13 the Northern Paiute occupied the region of Lovelock
14 Cave. In the second half of the 19th Century, the
15 U.S. Government began to set aside land for the
16 Paiute throughout Nevada. Numerous small
17 reservations, including the Lovelock Reservation
18 near Lovelock Cave, were created.

19 Paiute continue to express interest in the
20 respectful treatment of remains from their
21 traditional territory. The Paiute-Shoshone Tribe
22 of the Fallon Reservation and Colony, Lovelock
23 Paiute Tribe of the Lovelock Indian Colony, Pyramid
24 Lake Paiute Tribe of the Pyramid Lake Reservation,
25 and Reno Sparks Indian Colony have stated their

1 desire to have these remains reburied. The Paiute
2 tribes are a part of the Great Basin NAGPRA
3 Coalition that was formed to address NAGPRA claims
4 such as this one. The Fallon Paiute-Shoshone Tribe
5 have been designated to act as the lead in this
6 case. The College of Dentistry respectfully
7 requests that the Review Committee recommend
8 disposition to the Paiute-Shoshone Tribe of the
9 Fallon Reservation and Colony. And Mr. Stands is
10 on the phone.

11 DAN MONROE: Thank you. And, Mr. Stands, would
12 you like to add comment?

13 RAY STANDS: All I want to say is that I talked
14 to the new Chairman of the Lovelock Paiute Shoshone
15 Tribe after he was elected, and I was telling him
16 what was going to happen. And he stated that he
17 was – excuse me, that he was thankful that his
18 relatives were coming home and that they're going
19 to come home in a timely manner so that they would
20 not be disturbed anymore and their spirit will be
21 free to go back on the Milky Way. They have been
22 fighting to bring back all the remains from the
23 Lovelock Cave since it was discovered. And he is
24 happy that it's going to finally happen. They have
25 remains that have been returned in the past, but a

1 lot of the times they've had to wait years to do
2 it. So I appreciate the committee's time, the New
3 York School of Dentistry, and all of the other
4 nations across the country doing the same thing.
5 Thank you.

6 DAN MONROE: Thank you, Mr. Stands.

7 Committee members, how would you like to
8 proceed?

9 MERVIN WRIGHT, JR.: Mr. Chairman, because
10 we're listed as a consulting tribe, I'll recuse
11 myself from this action.

12 DAN MONROE: Thank you.

13 **REVIEW COMMITTEE MOTION**

14 ERIC HEMENWAY: I'd like to make a motion that
15 the NAGPRA Review Committee make a recommendation
16 to the Secretary of the Interior for the
17 disposition of one individual to the Paiute-
18 Shoshone Tribe.

19 DAN MONROE: Very good. Is there a second?

20 DONNA AUGUSTINE: I'll second it.

21 DAN MONROE: It's been moved and seconded. Any
22 further discussion?

23 All in favor say aye.

24 SONYA ATALAY: Aye.

25 DONNA AUGUSTINE: Aye.

1 ERIC HEMENWAY: Aye.

2 DAN MONROE: Aye.

3 ROSITA WORL: Aye.

4 DAN MONROE: All opposed?

5 The motion carries. Thank you, Mr. Stands.

6 RAY STANDS: Thank you.

7 And now we'll move to Florida.

8 **REQUEST 5: THREE LOCATIONS IN FLORIDA**

9 **PRESENTATION**

10 LOU TERRACIO: So Florida is located at tab 10.
11 This is requesting recommendation of disposition to
12 the Miccosukee Tribe. It's fortuitous that the
13 meetings are being held here in Sarasota. The
14 college and the Miccosukee Tribe of Indians are
15 requesting a recommendation on disposition of
16 remains from three locations here in Florida to the
17 Miccosukee Tribe.

18 The remains were removed from mounds in
19 Broward County, Levy County, and an unknown
20 location in east Florida. A total of nine
21 individuals are present, one from each of the
22 mounds in Broward and Levy County, and seven from
23 the mound of the unknown location. There are no
24 funerary objects at the College of Dentistry.

25 Forensic examination of the remains indicate

1 that the individuals are of Native American
2 ancestry. In addition, the archaeological data
3 from the known sites and general provenance of
4 mound are also indications that the remains belong
5 to Native American individuals. Because there are
6 three distinct areas, I'll go through them one at
7 time.

8 The remains of one individual were removed
9 from a mound on the Lettuce – on Lettuce Lake at
10 Pompano Beach. The site is located in Broward
11 County on the southeast coast of Florida.
12 According to state site files and archaeological
13 information, the mound and associated burials are
14 from the Glades IIIa Period, which dates around
15 A.D. 1200 to 1400. Glades Period settlements were
16 small and villages or communities may have shared a
17 single identity. The area around Broward County
18 has been identified as Tequesta territory. Ponce
19 de León noted Tequesta villages on the Miami River
20 in 1513. According to Spanish documents, Tequesta
21 chiefdom ranged from independent chiefdoms to part
22 of the Calusa paramount chiefdom. The Tequesta
23 suffered from diseases and other disrupting forces
24 of European contact. By 1730, only about a hundred
25 key Calusa and Boca Raton Indians were still living

1 on the Miami River. Three other refugee enclaves
2 of approximately a hundred people were located
3 nearby, by the time a distinct group that could be
4 identified as Tequesta had disappeared. In 1713,
5 these remnant communities in south Florida were
6 taken to Cuba when Florida was transferred from
7 Spanish to British control.

8 The remains of another individual were removed
9 from a mound on Hogs Island in Levy County. The
10 island is located just offshore of the mainland in
11 the Gulf of Mexico, north of Cedar Keys, in a
12 region called northwest peninsular coast. The
13 records from the Florida State site files and other
14 archaeological information suggest that the remains
15 are from the Weeden Island II phase, which dates
16 from approximately A.D. 150 to 450. Archaeological
17 evidence suggests that the north peninsular coast
18 of Florida was a distinct region during the Weeden
19 Island Period and maintained its distinct
20 archaeological signature into approximately A.D.
21 1200.

22 After A.D. 1200 it's difficult to identify a
23 distinct group in the region and the cultural area
24 of the northwest, east, and south do not extend
25 into the region. The early historic record is

1 vague because no Spanish missions were established
2 in this region. There are no records to identify
3 the people from the region in subsequent French or
4 English documents either. It is likely that any
5 inhabitant of the northwest peninsular coast
6 quickly felt the effects of European disease that
7 were introduced by the Spanish in the early 1600s.
8 As in other portions of Florida, their communities
9 probably shrank in size until only a small portion
10 of the original population was left. These people
11 may have sought refuge elsewhere in Florida but
12 were never identified.

13 The remains of seven individuals were removed
14 from an unidentified mound in east Florida. The
15 designation of east Florida is usually reserved for
16 central and northern parts of the east coast. This
17 region corresponds geographically to the course of
18 the St. Johns River and its tributaries. Although
19 the site is not located – the exact site is not
20 located, there were many mounds constructed along
21 the St. Johns River. The Prehistoric sites in the
22 region are associated with the St. Johns culture.

23 During the Historic Period, the region is
24 identified as the territory of the Timucua. The
25 Timucuan villages were visited by Spanish in 1528

1 and 1539. The French expedition to the St. Johns
2 River brought French contact into the Timucuan in
3 1562. In 1565, Spanish missionization began but it
4 was short-lived, perhaps because the region was not
5 suitable for the agriculture needed to support an
6 entire mission. In 1595 and in 1606, the
7 Franciscan established missions in northern
8 Florida, but none were established along the St.
9 Johns River, suggesting that diseases introduced by
10 Europeans had decimated the population in the
11 Timucuan area.

12 Between 1595 and 1656, epidemics resulted in
13 massive population loss, leading to the
14 consolidation of the missions into centralized
15 villages at key locations. By 1711, the only
16 remaining mission was located at St. Augustine,
17 where 942 Timucua and Apalachee were living. In
18 1759, only 59 Timucua and Apalachee remained at St.
19 Augustine. The Spanish withdrew from St. Augustine
20 between 1763 and 1764, taking the 89 Native
21 Americans living at St. Augustine with them to
22 Cuba. The population vacuum created by this
23 absence of Florida tribal groups opened the state
24 to migration by the Lower Creek. The first Creek
25 settlements were located in northern Florida.

1 Conflicts with the British and then the American
2 Government pushed the Creek into the southern half
3 of the state. These Creek communities grew
4 independent of Creek Nations in the North and
5 became known as the Seminole and the Miccosukee.

6 The Miccosukee have asked that the remains
7 from these nine individuals be transferred to the
8 Miccosukee so that they can be reburied. Although
9 the tribal representatives were unable to be here
10 today, they have explained in their position letter
11 and I quote, "The Miccosukee must care for those
12 that precede us so that their spirits will be at
13 rest. The Miccosukee do not want to do this but
14 are compelled to do so. This allows their spirits
15 to be at peace and to stop roaming the spirit world
16 looking for themselves."

17 The college appreciates the Miccosukee and are
18 willing to – that they are willing to take
19 custodial responsibility for the remains, and we
20 support their claim for the remains.

21 DAN MONROE: Thank you very much.

22 Are there any further questions on the part of
23 the committee?

24 **REVIEW COMMITTEE QUESTIONS AND DISCUSSION**

25 DONNA AUGUSTINE: How many remains in all?

1 LOU TERRACIO: Nine total.

2 DONNA AUGUSTINE: Nine total, okay.

3 SONYA ATALAY: I have a question. I wonder if
4 you could speak a bit about the nature of the
5 remains. From what I can gather about the
6 materials, it seems to be predominantly crania and
7 mandibles that are in the collection that you have.

8 LOU TERRACIO: Pretty much that's all that the
9 collection that we have at the college consists of.
10 We have no funerary objects at all, and Lauren's
11 been through the whole collection, whereas I
12 haven't. But there are only crania and mandibles.

13 SONYA ATALAY: And I wonder if you could talk a
14 little bit about, for example, from the documents
15 from the Lettuce Lake Site talk about that there
16 are possibly further remains elsewhere because I
17 wonder if you could speak to the collection
18 practices of the college, as to why it is that you
19 have crania and mandibles and where the remaining
20 remains of these human beings might be.

21 LOU TERRACIO: We received this collection from
22 the NMAI in around 1956, and pretty much it was
23 given to an anthropologist who was a member of the
24 college — this significantly predates me — and were
25 used for study by him and his students. At his

1 passing most of the remains were boxed and put in
2 storage. A few were left on – in an educational
3 display, but pretty much what we received in a
4 transfer is all we have. Lauren might be able to
5 comment about collection practices.

6 LAUREN SIEG: There are split collections
7 because the interest of the anthropologist who
8 received the remains was based on teeth, and so the
9 crania and mandibles were transferred but not
10 postcranial remains.

11 SONYA ATALAY: Thank you.

12 DAN MONROE: So could you repeat what was the
13 source institution?

14 LOU TERRACIO: National Museum of the American
15 Indian transferred the collection to us.

16 DAN MONROE: And what date?

17 LOU TERRACIO: In – was it '56?

18 LAUREN SIEG: Yes, prior to the national part,
19 when it was just the Museum of the American Indian
20 Heye Foundation.

21 DAN MONROE: The Heye Foundation. Any further
22 questions?

23 How would you like to proceed?

24 **REVIEW COMMITTEE MOTION**

25 SONYA ATALAY: I'd like to make a motion that

1 the Review Committee make a recommendation to the
2 Secretary of the Interior for the disposition of
3 these remains to the Miccosukee Tribe.

4 DAN MONROE: Is there a second.

5 ERIC HEMENWAY: Second.

6 DAN MONROE: It's been moved and seconded. Any
7 further discussion?

8 All in favor say aye.

9 SONYA ATALAY: Aye.

10 DONNA AUGUSTINE: Aye.

11 ERIC HEMENWAY: Aye.

12 DAN MONROE: Aye.

13 ROSITA WORL: Aye.

14 MERVIN WRIGHT, JR.: Aye.

15 DAN MONROE: Opposed?

16 Motion carries.

17 Thank you very much for your testimony and
18 actions.

19 LOU TERRACIO: Just out of respect, I don't
20 know if Ms. Young joined us late and if she did,
21 even though the proceedings are over, I don't want
22 to ignore her.

23 WASTEWAIN YOUNG: Good morning, everybody.

24 DAN MONROE: Yes, good morning. Would you like
25 to add comment?

1 WASTEWAIN YOUNG: The total hearing is over? I
2 just have a question. That's all.

3 DAN MONROE: Yes, please proceed.

4 WASTEWAIN YOUNG: When the process of once the
5 motions are passed and whatnot, how do the – how
6 does it work after that? How do they – how are
7 they returned to the tribes?

8 DAN MONROE: David.

9 DAVID TARLER: Mr. Chair and Ms. Young, we will
10 contact you later about the process.

11 WASTEWAIN YOUNG: Okay. That was my only
12 question.

13 DAN MONROE: Very good. Thank you for joining
14 us.

15 WASTEWAIN YOUNG: Yes.

16 LOU TERRACIO: Thank you very much.

17 DAN MONROE: Thank you for your testimony and
18 for your actions in this case. We appreciate it.

19 DONNA AUGUSTINE: Thank you very much.

20 LOU TERRACIO: Thank you very much.

21 DAN MONROE: Thanks to all who were on the
22 phone as well.

23 Next we will move to a request for a
24 recommendation regarding an agreement for the
25 disposition of culturally unidentifiable human

1 remains in the possession of the Pioneer Historical
2 Society of Bent County, Colorado.

3 And if you will please introduce yourselves
4 and then begin your testimony.

5 **REQUEST FOR A RECOMMENDATION REGARDING AN AGREEMENT**
6 **FOR THE DISPOSITION OF CULTURALLY UNIDENTIFIABLE**
7 **HUMAN REMAINS IN THE POSSESSION OF PIONEER**
8 **HISTORICAL SOCIETY BENT COUNTY, CO**
9 **INTRODUCTIONS**

10 KATHRYN FINAU: My name is Kathryn Finau. I'm
11 the Project Coordinator for the Pioneer Historical
12 Society of Bent County.

13 RICHARD WILLIAMS: My name is Richard Williams,
14 Cheyenne-Arapaho Tribes of Oklahoma.

15 JAN BERNSTEIN: Good morning. I'm Jan
16 Bernstein, Bernstein and Associates, NAGPRA
17 Coordinators.

18 DAN MONROE: Thank you. And do we have other
19 folks on the phone? No. Very good. Please
20 proceed.

21 **PRESENTATION**

22 **KATHRYN FINAU**

23 KATHRYN FINAU: Thank you for hearing our
24 request for a recommendation of disposition this
25 morning. And we also greatly appreciate the

1 Cheyenne and Arapaho Tribes of Oklahoma for
2 consulting with us and agreeing with this
3 disposition.

4 Since our previous presentation of disposition
5 agreement in De Pere, Wisconsin, in May 2008, new
6 evidence has come to light. We now have four
7 individuals instead of two as previously presented.
8 There is biological evidence to support that two
9 individuals are Native American, and there is
10 historic archaeological evidence to support that
11 the other two individuals are also Native American.
12 The evidence previously presented to support a
13 finding that the remains are Native American still
14 stands. The remains and funerary objects were
15 collected by a Mr. Dan Kaufman and donated by
16 Mrs. Dan Kaufman on June 3rd, 1973. According to
17 Mr. Kaufman's grandson collecting Native American
18 cultural items was Mr. Kaufman's hobby.
19 Mr. Kaufman donated only Native American cultural
20 items to our museum and he was known to only have
21 collected Native American cultural items.

22 We are sorry that Mr. Yellowman is not present
23 as indicated in the agenda because of a family
24 emergency. Mrs. Bernstein will be happy to guide
25 you through the history of this disposition

1 agreement and the documentation in your binders if
2 you would like her to do so, and of course we would
3 be happy to answer any of your questions. But
4 first, I'd like to have - Mr. Williams would like
5 to say a few words. He is the official NAGPRA
6 representative of the Cheyenne and Arapaho Tribes
7 of Oklahoma.

8 DAN MONROE: Thank you.

9 Mr. Williams.

10 **RICHARD WILLIAMS**

11 RICHARD WILLIAMS: First of all, I want to say
12 good morning to each and every one. I come from
13 the Oklahoma area where our people are pretty much
14 scattered out now but the majority of them all live
15 there. We have - we have about eight, nine
16 thousand that live there, and we're just scattered
17 out all over. We don't have a reservation. We got
18 individual allotted land that we live on. Again,
19 you know, we still do our ceremonies. We are heavy
20 into our ceremonies, and we still try to follow
21 those ways that our people have left long ago.
22 Some of them have left their teachings with us and,
23 we still try to carry them on, you know.

24 Right now, you know, before I came up we had
25 done a ceremony on these remains. And again, you

1 know, we put it in the spirits' hands, and this is
2 how we are. We still try to hang on to our
3 language, our teachings. We have Sacred Bundles
4 and the Keepers of those Sacred Bundles also pray,
5 you know. And these remains I feel have been held
6 captive long enough, and it's time to come home.
7 And again, our people, we have a lot of them that
8 have a lot of questions, you know, why? And some
9 of our older ones always ask why, you know. Why
10 don't they just release them and go on home? And I
11 have to go back and I have to answer some of those
12 questions, and of course we get some of them that
13 hardly ever go anywhere that stay at home and just
14 stay off to their selves. We've got quite a few
15 old people that speak our language, and that's all
16 they know. They don't hardly get out very much.

17 But again I speak for all of those in the
18 Cheyenne-Arapaho Tribes. And again, I just want to
19 thank everyone for allowing us to come over here
20 and to be able to speak on the Cheyenne-Arapaho
21 Tribes here. (Native American language.)

22 DAN MONROE: Thank you, Mr. Williams.

23 Jan, would you like to add anything?

24 JAN BERNSTEIN: No, I don't have anything in
25 particular to add, but I'd be happy to guide you

1 through the binder if you have any questions.

2 DAN MONROE: Are there questions?

3 **REVIEW COMMITTEE QUESTIONS AND DISCUSSION**

4 DONNA AUGUSTINE: I don't have a question. Is
5 it Gordon Yellowman, the one that was supposed to
6 be here?

7 JAN BERNSTEIN: Yes.

8 DONNA AUGUSTINE: I guess I have a little story
9 to tell, and all I can say is I was instructed to
10 share this story this morning and I was kind of
11 hoping that he would be here, how I met Gordon
12 Yellowman. I was a NAGPRA representative, I still
13 am. I wasn't on the board then, and we had a -
14 there was a NAGPRA meeting in Phoenix at the Heard
15 Museum. And the late Sam Little Owl, Ronald Little
16 Owl was alive at that time. I think our Review
17 Board remembers him. He is from the North Dakota
18 Reinterment Committee. Anyway that morning when I
19 went in, I had to offer tobacco to Sam, and he was
20 a medicine man. And I told him I had a very
21 powerful dream last night, and I shared some of my
22 dream with him. But then we had to leave early,
23 Darrell Newell from the Passamaquoddy Tribe and
24 myself. We had to leave early because of our
25 flights. So when we left, I didn't even have any

1 tobacco with me but I had a bag of sweet grass.

2 And Gloria Lomahaftewa, who was the assistant
3 curator at the time at the Heard Museum, I remember
4 that it understood they told us that they had no
5 human remains there. So anyway we go down to this
6 vehicle – which by the way I dreamt about. I told
7 Sam it's going to be a white van with a blue
8 interior. Sure enough, when we got in the van,
9 we're on our way to the airport, and there was
10 another person from Canada that was there for
11 another conference, he came in with us. And I told
12 him the same thing. Anyway I offered sweet grass
13 to Gloria. She was driving us to the airport. And
14 I said, Gloria, I want to say something. Do you
15 have any – do you have a little girl's remain, a
16 little girl's skull in your museum that was just
17 recently given back? And she turned around and she
18 said how did you know that? And I said because she
19 came to me in a dream.

20 When we were taken to the – the next day, the
21 second day meeting we were taken, we were invited
22 by the tribe to go to their community, and we
23 walked in it was exactly what I dreamt about
24 because I told Darrell Newell. And I said that in
25 my dream that a man, this tall man walked in, and

1 he had a little girl's skull in his hand. And this
2 little girl's skull spoke to me and she told me,
3 and I told this to Sam - we couldn't even talk
4 until later, because I never had a chance to speak
5 to him until after I got home. And I said this
6 little girl told me, kept telling me that she was
7 Big Head, and that she lived in the time of the
8 thick-skinned teepee. And I didn't know what that
9 meant. Later Sam told me, after the meeting Gloria
10 Lomahaftewa went to him and took him to where this
11 little girl's skull was in the museum, which had
12 been given back just a little over two weeks ago,
13 and it's true a man walked in with that skull.

14 Anyway, she - Sam told me that the thick - Big
15 Head, he said our people used to refer to the
16 Southern Cheyenne a long time ago as the Big Head
17 because they would take pieces of deer hair and
18 different animals like that and put them in their -
19 wrap them in their hair like this so that it
20 appeared that they had big heads. And he said the
21 time of the thick-skinned teepee they used to use
22 buffalo robes for their teepees. So that's the
23 time that she lived. And I told this to Gloria
24 Lomahaftewa. She was so amazed by this, and I said
25 and this little girl, her spirit told me that she

1 still has a lot to share with the people.

2 So Gloria when this happened, she told me from
3 that moment on, she said, I've been working with
4 remains and in a museum for a long time, it just
5 totally changed my whole context of my belief, even
6 though I'm Native. And she said every morning she
7 was pray. So when the remain was brought in - I
8 mean, when they were given back it was to Gloria -
9 I mean, to Gordon Yellowman. And when he came to
10 retrieve this ancestral remain, this little skull
11 of this little girl, she was about maybe eight or
12 nine years old, she said, we didn't have anything
13 to wrap this little girl, so she said I took my
14 scarf and I wrapped the skull of this little girl
15 and handed it to Gordon Yellowman. And I need to
16 speak to him and I need to tell him about this, at
17 a conference, and I told him a little bit on the
18 phone. And he said, where we house the remains
19 waiting for the reburial of many tribes, he said,
20 we have her in the center. We have her in the
21 place of honor.

22 And so I'm sharing this story today because
23 this morning I wondered what does she still have to
24 tell us? She said I still have a lot to share with
25 the people. Because what we talk about here is so

1 sacred, we are talking about spirits that lived
2 thousands of years ago, some of them, and that
3 their spirits are here today so this whole issue is
4 very sacred. And this little girl's spirit that
5 lived over 2,000 years ago came to remind me and
6 all of us about that.

7 And I think that I had to share this story
8 today to remind everyone here that what we are
9 dealing with here is very, very sacred. And it
10 should be talked about in the most reverence that
11 even when the – even at the NAGPRA trainings, our
12 people – our people laugh. We interject laughter
13 in everything that we do. It's part of our
14 survival skill. But when we're talking about human
15 remains, funerary objects, to talk about in the
16 most humble manner, because at one point I had to
17 walk out of this room because I felt that this is
18 not trivial. We're not talking about a table here.
19 We're not talking about any physical thing. We are
20 talking about the sacred remains of our ancestors
21 that spirits are still guiding us, that whom we
22 still pray to.

23 So anyway, my regards to Gordon Yellowman and
24 someday again, I'd like to go to where this little
25 girl is buried because she came to me. And I just

1 thought I would add that because like sometimes I
2 think, you know, here we are. We're talking about
3 so many remains. It's on a piece of paper. We're
4 talking about a law, but we forget and we need to
5 be reminded that this is a very sacred issue. It
6 transcends any political issue. It really
7 transcends any written law because it's a sacred
8 law. And to know that we are very fortunate to be
9 put in a position of responsibility to help them,
10 to help set their spirits free because we're all
11 going to be with them some day, every single one of
12 us, and every single one that's out there, that no
13 one is exempt. That we are all going to leave this
14 world and we're all going to be with those very
15 same ones that we're talking about now. And so
16 from the goodness of our hearts, from our spirits
17 to do the best that we can on their behalf because
18 it is they that watch over us. It is they that
19 will protect us and inform us when harm comes to
20 our territories. It is they that will – we are
21 still spiritually protected by the Creator, and we
22 are still spiritually protected by our ancestors.
23 That is why Native people still do ceremonies with
24 our pipes. This is who we honor when we do our
25 ceremonies, the spirits of our ancestors, the ones

1 that went before us, our sacred holy ones.

2 Thank you for allowing me for that time.

3 Thank you.

4 DAN MONROE: Thank you.

5 Other members of the committee?

6 ERIC HEMENWAY: I have a question.

7 DAN MONROE: Yes.

8 ERIC HEMENWAY: Just to have some clarity on
9 this. The remains from the unknown geographic
10 location, were those also collected by Mr. Kaufman?

11 JAN BERNSTEIN: We have two different – we have
12 two different donors. There are remains
13 representing two adult individuals that came from
14 one donor, and then the infant and the single adult
15 tooth came from another donor. But both donors
16 just collected Native American material.

17 ERIC HEMENWAY: All right. Thank you.

18 DAN MONROE: Other questions?

19 Does the committee wish to act?

20 DONNA AUGUSTINE: I'm a bit shaken up and maybe
21 I can't even do this right. But maybe somebody can
22 move it and I'll second it because I'm just still
23 feeling quite emotional here.

24 **REVIEW COMMITTEE MOTION**

25 ERIC HEMENWAY: I make a motion that the NAGPRA

1 Review Committee make a recommendation for the
2 disposition to the Secretary of the Interior for
3 the remains from the Pioneer Historical Society to
4 the Cheyenne-Arapaho Tribe.

5 MERVIN WRIGHT, JR.: Second.

6 DAN MONROE: It's been moved and seconded. Any
7 further discussion?

8 All in favor say aye.

9 SONYA ATALAY: Aye.

10 DONNA AUGUSTINE: Aye.

11 ERIC HEMENWAY: Aye.

12 DAN MONROE: Aye.

13 ROSITA WORL: Aye.

14 MERVIN WRIGHT, JR.: Aye.

15 DAN MONROE: All opposed?

16 Motion carries.

17 Thank you all very, very much.

18 JAN BERNSTEIN: Thank you very much.

19 DONNA AUGUSTINE: Thank you for continuing with
20 the sacred work.

21 JAN BERNSTEIN: Thank you, Donna.

22 ROSITA WORL: Mr. Chair.

23 DAN MONROE: Yes.

24 ROSITA WORL: I'd like to make a follow-up
25 statement to Donna's statement. I thought it was

1 very good, Donna.

2 First of all, I just wanted to acknowledge the
3 strength and the perseverance of our tribal members
4 in pursuing the return of our ancestors. I just
5 know how difficult it is, and you could certainly
6 hear that in the voices of all of our tribal
7 members who are making these requests. I want to
8 thank also those who support and help them in doing
9 this. It seems – you know, it seems like it's very
10 clinical, a very formal process, a bureaucratic
11 process, but I wish the nation could see, you know,
12 what really transpires in this room. It really is
13 a coming together of our history, you know,
14 sometimes a very brutal history. And hearing the
15 stories, you have to be really strong to sit up
16 here and to work with this, you know, because you
17 deal with tribes after tribes, and they tell you
18 these stories. And we know that people still will
19 not accept the traditional beliefs of our people
20 that they're not just physical remains but that the
21 spirits of our ancestors are still associated with
22 this. So it's just really very difficult and
23 trying to deal with this.

24 And I have to thank the Review Committee
25 members for, you know, having to read all of this

1 material, look at it and say to yourself, does the
2 evidence support the requirements of the law, and
3 that is our job as we who sit here. But I really
4 have to acknowledge our tribal people and say to
5 them I'm so sorry that you have to go through this.
6 But yet I'm very happy that we have a law that is
7 now allowing it.

8 I'm hoping, you know, that when maybe Sherry
9 writes her book that she is going to be talking
10 about what emerged from all of this. It's - to me
11 it's conclusive. I mean, we have this belief that
12 our spirits are associated with our human remains,
13 and I know people often can't understand why we are
14 so persistent in trying to get our ancestors back
15 home. So I just really wanted to make that
16 statement and acknowledging the tribes, the people
17 who work on this issue, and then also to the Review
18 committee members because it is hard work. So I
19 think we've had a very happy two days but a very
20 trying two days. And I'm happy with the results.

21 DONNA AUGUSTINE: Thank you very much, Rosita.
22 I really appreciate that, thank you. (Native
23 American language.)

24 DAN MONROE: Thank you, Donna and Rosita. And
25 I would just add that while it's important for us

1 to move this process forward and everyone is
2 anxious rightfully for a resolution to these
3 painful issues and the means by which we do that is
4 quite formal, obviously, that all of us on the
5 Review Committee feel deeply that it's critically
6 important that we take these steps, we do so in a
7 responsible way, and that we respect and honor
8 everyone who is involved in helping return these
9 spirits to their proper place. And we thank all of
10 you for your patience. It's often very trying to
11 go through this process. But notwithstanding the
12 fact that it's important that we move through it in
13 a way that enables us to do the work, I want to
14 underscore that we all feel very deeply as we go
15 through it. And we thank you for your
16 participation.

17 Are there any other comments?

18 MERVIN WRIGHT, JR.: Yeah, I'd like to make a
19 comment. Thank you, Donna, Rosita and Dan, for
20 your comments. I too look at these issues as
21 challenging and – but the charge that we have is to
22 bridge the gap between the misunderstanding that
23 exists between these words that are written in the
24 law books and the regulations and the belief and
25 faith that we have in our existence as Native

1 people.

2 You know, I've come a long way in dealing with
3 this law, with the regulations, and I was
4 explaining to Sonya here this morning that I was
5 one coming in at the start like the bull in a china
6 shop, you know, not caring what the museums, what
7 the agencies had to say but more demanding. And as
8 many times that we've been told no, no, no,
9 constantly frustrating and we're still experiencing
10 that today, the frustration of having to be told no
11 because the museum official or the agency official
12 reads these regulations to say I'm sorry, you know,
13 these words on the paper say we can't do that.

14 So I start reading the regulations, start
15 reading the law, and start trying to navigate
16 through the interpretation, the meanings and how
17 it's going to help as tribal people to understand.
18 And in a certain regard, you know, I can appreciate
19 the scientific community and their intent, and I
20 was explaining to Sonya yesterday too that I am a
21 scientist also, but I earned my degree in
22 hydrology, our water, and because of my connection
23 with – through our ceremonies and the importance of
24 water in our ceremonies and what it has shown me in
25 having to be employed by the Pyramid Lake Paiute

1 Tribe in dealing with our water rights and sitting
2 at the negotiating table, having many meetings with
3 Federal government, with the states, in dealing
4 with our water. And so I was inspired to enter
5 graduate school and earn my master's degree in
6 hydrology. And because on that spiritual side we
7 understand what water means to us, our existence
8 and our continuation of our existence. And now on
9 the technical side, now we look at how the state
10 engineers of our – and the Bureau of Reclamation
11 officials and all of these people how they
12 interpret the meaning and the technicality and the
13 management of water. And even in that arena, huge
14 challenges out in the West, climate change,
15 increasing populations.

16 And so when I look at what we're doing here
17 today, and I certainly appreciate all the effort
18 that has been put into working with the museum
19 officials and with the Federal agencies, you know,
20 in coming to this conclusion, we have a long way to
21 go, you know. There's many of us out there that
22 still disagree with having to come to the table,
23 having to reopen the pain and the suffering, you
24 know, in having to deal with this. But you know, I
25 was always taught not to think too much about what

1 we have to do, just do it, have to do it.

2 Later on somewhere along the line you're going
3 to have that moment and you're going to have that
4 time to just take it in and then have that time to
5 release whatever energy, whatever emotion you may
6 be experiencing, having to experience, just as it
7 was said yesterday. A lot of us we walk this path,
8 and the strength that we have is really the
9 compassion and the caring for our past and for our
10 existence today and then for our future. And I
11 appreciate, you know, the acknowledgement that's
12 being made to the committee by all of you and
13 everyone who depends on this body to listen, to
14 hear the testimony and the commitment and the
15 conviction that we carry to see it to a conclusion.

16 And I've always - also when I first got
17 involved, one of the first things that our people
18 told us, our Elders and others, our colleagues, we
19 need to finish this work so our children don't have
20 to do this. Our children don't deserve the feeling
21 and the energy that we have to expend to deal with
22 these things. And so that's been my commitment,
23 but however - you know, looking at the progress of
24 NAGPRA, and the law has come a distance since its
25 beginning but we have more work to do. We have,

1 you know, this path is still out there ahead of us.
2 And hopefully at some point in time our modern-day
3 Western civilization society with which we live in
4 will come to a point where it can acknowledge the –
5 our respect, our existence for everything that
6 represents from the beginning to now and into the
7 future, that they too may see when we talk about
8 human rights legislation, we talk about civil right
9 legislation, what does that really mean. I think
10 we know what it means but we have to bridge that
11 gap so that we all know what it means. Thank you.

12 DAN MONROE: Any further comments?

13 DONNA AUGUSTINE: I'd just like to say one more
14 thing. This is on? Okay. Since NAGPRA started –
15 like I said, I've been doing this even years before
16 NAGPRA began, but since the beginning until now
17 when I look at it, I really have seen a huge
18 change. And when it first started the Native
19 people and the museum people were like this
20 (indicating), like there was no way they were going
21 to agree on anything. And I remember Sam Little
22 Owl, again I believed Sam Little Owl when he told
23 us, that it was told to him in a ceremony that it
24 is this very issue of repatriation that is going to
25 bring our tribes together. And at the time I

1 couldn't see any other issue that all our tribes
2 could agree on, especially across the border. But
3 anyway, this has because this is dear to all of our
4 hearts.

5 And then he was also told that again it is
6 this very issue, dealing with this repatriation it
7 is – what's going to come out of this he said that
8 we are going to – as a result with us doing this,
9 we are going to teach the other races of man again
10 how to protect and respect their dead. And again
11 at the time I didn't quite realize what he meant,
12 but I'm really starting to see that now. I'm
13 starting to feel it. The first part of the message
14 that he was brought and the second part, because I
15 see that the museum people and the tribes working
16 together, not so much seeing each other as enemies
17 anymore, we're really seeing the importance of this
18 issue. And so I have to acknowledge as a
19 traditional person that a lot of the work that the
20 museum people have done. And so they're starting
21 to come together and I – and I think that and I
22 feel that as the museum people are working together
23 with the aboriginal people, Native people, they are
24 learning how sacred this is to us and as they are
25 doing this they are starting to feel it too. They

1 are starting to feel that respect for the ones that
2 went before us and so in doing so it makes them
3 somehow feel that love and appreciation for their
4 ancestors because the Creator made us all unique,
5 who we are.

6 So I see this happening and as it's going
7 towards the 20th anniversary I can say I see a real
8 big healing starting to happen. I really do and it
9 hasn't been easy, but I acknowledge it, and I thank
10 all of you and the Review Board, the ones that have
11 been on it from the start to now, all the ones that
12 work on this issue, thank you. It's not easy, but
13 we're doing this and those ancestors, those very
14 same ones that we're dealing with are still
15 teaching us and I thank them. Thank you.

16 DAN MONROE: Thank you. Let's take a break for
17 20 minutes. We'll reconvene at 10:30, and thanks
18 again to all of you and to the Review Committee
19 members.

20 **BREAK**

21 DAN MONROE: Thank you. Let's move forward
22 with our agenda and discuss the spring and fall
23 2010 meetings.

24 **SPRING AND FALL 2010 MEETINGS**

25 DAN MONROE: We had a recommendation that we

1 were meeting by teleconference in the spring. I
2 know that there is a desire to discuss that
3 recommendation, and so let's open it up and begin
4 the discussion of the 2010 meeting schedule.
5 Maybe, Sherry, you could explain what you had in
6 mind with the notion of only doing one in-person
7 meeting next year.

8 SHERRY HUTT: Well, the -- all of the Federal
9 government is facing certain budget issues and we
10 try to deal most efficiently with the funds that we
11 have. So when I -- and one of the issues that
12 Congress looks at in terms of all the Federal
13 agencies is travel, and so all the Federal agencies
14 were asked to cut their travel budgets
15 significantly. We have what I would consider an
16 immovable force. I mean, we have a certain
17 critical need because this committee meets and
18 meets in person and there's a standard travel cost.

19 The basic travel cost -- and I don't bring all
20 the staff to meetings. I know you all at various
21 times have been very, very nice and wanted to have
22 more staff here to meet people and have them do
23 their reports, but you can see I don't do that. So
24 our basic travel costs are about 35,000. That's
25 just the travel part of a meeting, not the

1 logistics of the meeting rooms and such. So I
2 don't have 70,000 in the travel budget. It isn't
3 there. And that includes the travel for the civil
4 penalties investigator as well.

5 So one thought was if we moved the DC meeting,
6 which was originally going to be in the spring
7 within FY10 in DC, if we moved that back to the
8 fall, still calendar year '10 but it will be FY11
9 in DC, then we coincide with the 20th anniversary of
10 NAGPRA in DC and we can begin to invite people,
11 notables to come to the meeting. I mean, when we
12 discussed - when we were discussing the regulation
13 with Mr. Echo Hawk and he thought you all were
14 going to be here for the 20th anniversary and he
15 could come, he just had his people write it down on
16 his calendar right away.

17 So if you would consider scheduling the
18 telephonic meeting in the spring, one-day meeting,
19 to do what you can do telephonically if there are
20 disposition requests that can be done if people
21 call in and that sort of thing. And then the
22 meeting in the fall coinciding with the 20th
23 anniversary of NAGPRA, and we - what we have done
24 is we have reserved three days, in case you need
25 three days not having had a face-to-face meeting

1 earlier in the year. So at least whether you use
2 the three days or not that will depend on the
3 agenda that you all have but to reserve three days
4 at the Yates Auditorium at Main Interior where you
5 have been before, the large ceremonial auditorium,
6 for that week of the 20th anniversary of NAGPRA.

7 And the first two days of that week would be
8 the NAGPRA at 20, which is the conference that
9 Sangita told you about yesterday with her planning
10 team, which would be two days of keynote speakers
11 and conferences and all, compiled with partners,
12 and then go into a three-day meeting. So it would
13 be an entire five-day – an entire week of NAGPRA.
14 And we have been able to secure the Yates
15 Auditorium for the three days.

16 DAN MONROE: Thank you.

17 SHERRY HUTT: And then of course you will also
18 have your spring meeting in '11 where you have been
19 invited to Syracuse, and they're working on that.

20 DAN MONROE: So committee members, your
21 thoughts in response.

22 ROSITA WORL: Mr. Chair, again, you know, I can
23 appreciate the budget shortfall and – but I'm still
24 disturbed by it, and I don't want this to become a
25 pattern. I mean, this – the work of the committee

1 is very important. We all know that. And the
2 committee is only – it's at – it's the most
3 effective when it can meet face to face. We found
4 from that one teleconference when we were trying to
5 deal with the CUI regs, it was disastrous. And so
6 we said at that – following that meeting that when
7 we had audio conference calls they would be for
8 informational purposes.

9 But I think if the CUI, if we have further
10 requests for dispositions and if they are as well-
11 developed as the ones that we saw here today and
12 yesterday, then we could possibly do those via
13 audio conference call. I mean, we see the tribes
14 coming in and participating in that way. But if we
15 were to go into any other kind of like discussion
16 of regs responding to that then it probably
17 wouldn't work.

18 But I just want to state strongly, you know,
19 that for this year – I mean, I've thought about
20 different ways we could approach this. I thought
21 well maybe we could just go ahead and use our –
22 this fiscal year's budget money and meet in the
23 spring and then some of us would go and lobby like
24 crazy in our other hats, you know, to try to get
25 the money. And – but I know we can't count on

1 that, so I abandoned that idea, but – so I want to
2 stress I'd rather we never do this again in another
3 fiscal year. If we have to forgo other kinds of
4 activities, and I know you're doing a lot more and
5 a lot more is because we have been requesting that.
6 So you would have to tell us, okay, Review
7 Committee, you want that but it's going to cost
8 this and we're going to have to make some
9 determinations about where the budget – you know,
10 the budget.

11 So with that, I could go ahead and support a
12 spring 2010 audio conference call and I just want
13 to throw out a date and maybe people could look at
14 their calendar, May 14, and it really doesn't
15 matter, you know, if it's anytime of the week right
16 now, but Friday, I was thinking Friday might be a
17 good day, the end of the week for folks.

18 DAN MONROE: Other comments? Thank you,
19 Rosita.

20 Would it be possible for us to take a look at
21 various balancing acts with respect to costs of the
22 meeting? I have to say I share the concern about
23 moving to a teleconference meeting. I think that
24 it's very difficult also to maintain, if you will,
25 the momentum and the working function of the

1 committee when we only meet once a year, in effect.
2 And so I guess my question would be is it possible
3 for us to look at what some of the tradeoffs might
4 be if we were to proceed with having two meetings.
5 And we may well decide that there are really no
6 options but to do what you've suggested. But is
7 that a possibility?

8 SHERRY HUTT: Yeah, for FY10, the budgets have
9 come out and actually we're under a continuing
10 resolution as a Federal Government so it's
11 difficult to work within that. But for '11, the
12 meeting in DC would mean that a good many of us
13 would not be traveling, my staff would not be
14 traveling, so we've reduced costs in that way and
15 thereby are able to support, fully support the
16 meeting in Syracuse in the spring. So we get
17 through FY 2011 with two in-person meetings, plus
18 whatever telephonic meetings that you all may
19 determine are necessary.

20 So I'm not looking at this as an ongoing
21 practice. I'm looking at it as one time, and I'm
22 also looking at - in terms of the civil penalty, we
23 put a piece of our budget into that. It's very
24 likely that we may be able to institutionalize
25 within the Park Service a law enforcement person so

1 that the budget is handled differently, and then I
2 would hopefully be able to do more in the Review
3 Committee meetings.

4 So I'm not looking at this as an ongoing
5 scheduling idea, just this one time, and with the
6 idea that we go into the NAGPRA at 20 with a three-
7 day meeting and a two-day conference that precedes
8 it and a really major production acknowledging all
9 that we should acknowledge and then keeping the
10 spring meeting. Then we – you know, 2012 is
11 further on the horizon –

12 DAN MONROE: Right.

13 SHERRY HUTT: – but I would take very strongly
14 your admonition or your caution that it's
15 insufficient to do less than two face-to-face
16 meetings on a regular basis.

17 DAN MONROE: I mean I would prefer personally
18 that we would meet twice in DC as a means of
19 cutting costs as opposed to trying to carry out
20 business by teleconference. So if we could take a
21 look at some of those options, I would appreciate
22 it. And I understand as we all do that there are
23 realities on the ground all of us face in terms of
24 financial constraints. Are there other comments?

25 Very good. Thank you.

1 PRESENTATION, DISCUSSION, AND APPROVAL OF THE
2 REVIEW COMMITTEE'S REPORT TO CONGRESS FOR 2008, AS
3 REQUIRED BY 25 U.S.C. 3006 (h)
4 DISCUSSION OF 2008 REPORT TO CONGRESS

5 DAN MONROE: Let's move to a discussion of the
6 report to Congress, and we had hoped to be able to
7 make copies and pass this out but I think that we
8 should go ahead and have the discussion. Perhaps
9 you could just give us a summary of the report as
10 it stands. And as a part of this discussion, I
11 also want to make sure that we discuss the recent
12 hearings held on NAGPRA by Congressman Rahall and
13 the — who is the Chair of the House Natural
14 Resources Committee.

15 SONYA ATALAY: Sure. Thank you. Well, I'd
16 like to begin by giving acknowledgement to my
17 colleague and fellow Review Committee member, Alan
18 Goodman, who couldn't be here today because he is
19 sick. But we worked on this report together and I
20 have to say that I'll be relying on my fellow
21 Review Committee members for a lot of input on the
22 final version of this report because I actually —
23 the report to Congress is for 2008 and I actually
24 didn't serve on the committee in 2008. So it
25 became a little difficult to write a report that I

1 wasn't serving on the committee, but I was able to
2 go back and get a lot of documentation from the
3 excellent records that were already there. So I
4 will ask, of course, for input and discussion as I
5 go through this. I hope that it's comprehensive
6 but I'm sure there will be more input that we could
7 add to this.

8 So the report begins with just an introduction
9 of NAGPRA and the legislation itself. We move on
10 to talk about Review Committee activities,
11 specifically the meetings that were held and where
12 they were held in 2008, and I should just say that
13 this is not a fiscal year report, it's a year
14 report for the year of 2008. We then talk about
15 the members who were on the committee and who was
16 nominated and that the membership for the committee
17 remained the same for the year 2008.

18 We move on to talk about the activities of the
19 committee. Specifically I called attention here to
20 the states that had cultural – disposition of
21 culturally unidentifiable human remains,
22 recommendations that came before the committee.
23 And those states were, for 2008, Arizona, Colorado,
24 Kentucky, Michigan, Nebraska, Tennessee,
25 Washington, and West Virginia.

1 We then talk about here further activities,
2 which were consulting on 43 CFR 10.7, the proposed
3 regulations for unclaimed cultural items at the
4 October meeting. And many of these items I'm going
5 through them quite quickly because they have been
6 detailed elsewhere. You can also find very
7 detailed information about these in the fiscal year
8 report that Sherry Hutt and others on the staff had
9 put together, and those are available on the
10 website.

11 SHERRY HUTT: Right.

12 SONYA ATALAY: We then go on to talk about –
13 make sure that I have this in the right order, the
14 progress that was made on NAGPRA during 2008,
15 specifically drawing attention again to information
16 that can be found in fiscal year reports 2008 and
17 2009, speaking of the number of inventory
18 completions that were made – and these are
19 repetitions, so I won't go into the numbers unless
20 you would like me to or if others would like to
21 hear these – the number of summaries that were
22 completed, also calling attention to the progress
23 made with the culturally unidentifiable individuals
24 database. There were 2,321 remains thus far that
25 have been affiliated and removed from the CUI

1 database. So I wanted to – I thought it was
2 important that we call attention to the usefulness
3 of the CUI database and – for affiliating remains.

4 We then move on to talk about the barriers
5 that have been encountered, specifically talking
6 about an issue that's come up several times in
7 front of this committee. Yesterday and today we
8 discussed the issue of culturally unidentifiable
9 human remains, remains that have been labeled as
10 such, and call for further consultation that needs
11 to be done in order to try to move more of those
12 individuals into the affiliated category. Of
13 course, this is going to – we recognize that this
14 will take funding as we've seen from these
15 dispositions how extensive the documentation is
16 that you see in these binders that we read through
17 and what we – we're just reading and we're
18 discussing them here in two-day meetings, but from
19 the extensive nature of the material that's in here
20 for each and every one of the dispositions we
21 discussed there's a lot of money and time that
22 needs to go into those. So for that, we discussed
23 the need for further funding. And that's in one of
24 our recommendations but it's also spoken of in the
25 Barriers Encountered section of the report.

1 We also talk about the importance of civil
2 penalties, and as we heard from Sherry Hutt in her
3 fiscal year report yesterday that we – the backlog
4 is being addressed for civil penalties but that we
5 feel that it's important to increase the funding
6 for that as much as possible because this is an
7 important part of NAGPRA compliance and an
8 important part of the legislation.

9 We then move on to talk about recommendations
10 for a uniform policy of reburial on Federal lands,
11 that this is an issue that has come up and that
12 we're discussing this as well, not just in the
13 Barriers Encountered but as one of the
14 recommendations that the committee is making.

15 So the final section of the report, we have
16 four recommendations that we've made, two of which
17 I've already spoken of. The cost to comply with
18 NAGPRA, we discuss recommendations for at least 4.1
19 million dollars in grants to Indian tribes, Native
20 Hawaiian organizations and museums for the reasons
21 that we outlined earlier in the Barriers
22 Encountered section. And we discuss – and this was
23 something that came up at the Seattle meeting this
24 year in May was having a meeting with museum and
25 Federal agencies that have large culturally

1 unidentifiable human remain inventories as a way to
2 better understand the problems that are encountered
3 by those museums and Federal agencies, and with the
4 tribal communities that are possible descendants of
5 those remains. So that was the second of our
6 recommendations.

7 The third which I've already mentioned,
8 development of a reburial policy, and the fourth is
9 to revisit the issue of definition of Native
10 American. We're strongly recommending that
11 Congress amend the definition of Native American by
12 adding the words "or was" so that it reads "Native
13 American means of or relating to a tribe, people or
14 culture that is or was indigenous to the United
15 States."

16 That concludes my overview of the report.

17 DAN MONROE: Thank you. Comments?

18 ROSITA WORL: Mr. Chair, I would like to – and
19 maybe it's in there and I might have missed it, but
20 if we could have a section in there on a summary of
21 the disputes and the final outcome of those
22 disputes, have those disputes been settled, how
23 many have – are still not resolved, how many might
24 have gone to court, and it's one of the areas that
25 I've – that has been of concern to me. And you

1 know, in thinking about our 20-year review of
2 NAGPRA, you know, I have suggested that maybe we
3 should be considering, you know, what are some of
4 the things that we've learned and where do we need
5 changes. I know people would be loathe to open up
6 on NAGPRA, but after 20 years we've – you know, we
7 have a history and it might be, you know, that
8 there would be some things that we might want to
9 consider amending. And this is the one area where
10 I've had particular concern because it's – the
11 tribes and museums and agencies come to great
12 expense, you know, when we have these disputes.
13 But they are advisory in nature. You know, is
14 there a possibility that we could go one step
15 further, I don't know. I don't know those
16 questions, but those are things that I would like
17 in your review of that – of your assessment or
18 whatever you're going to do in the 20-year program
19 review in DC is that that be one of those that we
20 look at.

21 And so if Sonya wouldn't mind, I'd like to
22 have that included, and I think David probably
23 could provide that information. And kind of like I
24 think it's – I want to use it as maybe if I have to
25 – if we have to come back later and say this is why

1 we need to make these legislative changes, I think
2 it sets the stage for that.

3 DAN MONROE: Thank you.

4 SONYA ATALAY: I have a question about that.
5 Is that information readily available where things
6 stand on each of these dispositions at this point?
7 I know we have a record of what was decided by the
8 Review Committee and the Secretary in terms of
9 these dispositions, but in terms of where things
10 stand at this point with each of them.

11 SHERRY HUTT: Yeah, then the follow-up is the
12 publication of a notice. So like in the annual
13 report, the dispositions that you all have done,
14 when we report those we would also report that a
15 notice has been published and there would be some
16 that wouldn't have had a notice published and those
17 would still be outstanding, like the one you had
18 presented this morning that had presented in De
19 Pere and obviously there was no notice. Now
20 they've come forward and you've approved it, so
21 eventually, hopefully there will be a notice, that
22 sort of thing.

23 On the Review Committee, on the disputes and
24 the findings and what effect that is, there was
25 something done at one point. It was very - it was

1 somewhat cryptic. We've had two different law
2 students as interns working on what you all have
3 requested in the past as well, a more developed
4 look at what were the issues put before the Review
5 Committee, not just who the parties were and that
6 you said this or that, but what were the
7 fundamental issues, what was discussed, what were
8 the recommendations, because there's a learning
9 experience to be gathered from your pronouncements
10 and the kinds of things that you've dealt with and
11 how they've resolved. So we've been working toward
12 more of a – I don't want to say database, but a
13 more elaborate analysis of all of the Review
14 Committee decisions to date and the circumstances
15 and what has resulted.

16 So what we have at this point is sort of basic
17 in terms of what you're asking for, we can give you
18 that much. But we're hoping for – but we're
19 working toward more.

20 SONYA ATALAY: So short of a notice or lack of
21 a notice, I guess, in those cases that's the kind
22 of data that we would have, nothing further in
23 terms of follow-up – records of follow-up with
24 museums or tribal entities about the status of –

25 SHERRY HUTT: To find out if they were actually

1 repatriated?

2 SONYA ATALAY: Right.

3 SHERRY HUTT: Yeah, the reason it's only
4 anecdotal is that the law does not give the
5 National NAGPRA Program the authority to follow up
6 and do survey. And there was a report under a
7 NAGPRA grant where we thought survey was going to
8 be done that was going to answer that question, but
9 it didn't really deal with that question as it
10 turns out. Because what you're really saying is
11 after the notice is published – I mean, this is
12 something you might consider because this is a gap
13 that you all have identified, after a notice is
14 published, the authority at the National NAGPRA
15 Program in terms of fostering the process, it's
16 done. It takes you to the notice stage.

17 You can presume that where these parties have
18 worked so hard, particularly on disposition of
19 unidentifiable that once the thirty-first day of
20 that notice has lapsed that those remains are going
21 to transfer control. We only know those
22 anecdotally. Sometimes we get a – someone will
23 forward us a newspaper report. We know of the ones
24 where they then come forward and request a grant
25 and we fund the transportation of those items and

1 those individuals. But other than that, we don't
2 have a comprehensive because under the – as a
3 Federal entity, we don't have the authority to
4 survey. Whether someone do a survey or Congress
5 look at a survey at some point, maybe after 20
6 years of NAGPRA and "X" number of – and 1,772
7 notices having – 1,772 notices having been
8 published, how many have actually transferred, I
9 mean that's a question, a question that you are
10 legitimately asking. And there's that gap there in
11 the ability to do survey.

12 DAN MONROE: Yes.

13 ROSITA WORL: Mr. Chair, at one point we did
14 have in our reports a compilation of all of those –
15 of all the disputes, and we – and I think the final
16 determination was kind of left blank but we had it
17 on there. And it may be – and I think we should
18 try to figure it out, you know, from the ways that
19 you suggested, did they request a repatriation
20 grant, you know, to complete it.

21 But if we had that – if we had that report
22 like on our website, it may be that we could get a
23 student, I could get one of my students, Sonya
24 could get one of her students, you know, to do the
25 follow-up and try to plug it in. The other way is

1 to ask GAO to include that in their study, and from
2 what I understand in talking to the GAO people who
3 were here I don't know if they're here yet, is
4 that's a question - is that a question that might
5 be included in that GAO study.

6 SHERRY HUTT: Do you want to come forward?

7 **UPDATE ON THE STATUS OF THE GAO STUDY**

8 JEFF MALCOLM: Well, which part? I mean, I
9 think you raised two separate issues. One is
10 following up on (comment inaudible).

11 SHERRY HUTT: Come forward. Come have a seat
12 and join us.

13 JEFF MALCOLM: Again, there was two separate
14 issues that you raised. One was following up on
15 the disposition of some of the disputes and what
16 has happened to that. The second being kind of
17 what Sherry was talking about on a much larger
18 scale as far as how many repatriations have there
19 been. Certainly the latter is something that we're
20 seriously looking at considering, and she is
21 correct; it would probably be a survey. But at
22 this point we're only looking at the Federal agency
23 side of it, so it would be taking all the notices
24 that the Federal agencies have issued and then
25 following up with those agencies to see what

1 happened after the notices were published. So that
2 is something that we're seriously looking at
3 including in the scope of our study.

4 ROSITA WORL: But not the dispute -

5 JEFF MALCOLM: It could be.

6 ROSITA WORL: - outcomes.

7 JEFF MALCOLM: I mean we're still open to
8 looking at that. We haven't set it in stone or
9 finalized what we are going to be looking at, so if
10 that's something that's significant and important
11 and you think would be useful, if it hasn't been
12 done that's something we could certainly look at
13 including.

14 DAN MONROE: Could you state your name for the
15 record?

16 JEFF MALCOLM: I'm sorry, I'm Jeff Malcolm.
17 I'm an Assistant Director with the U.S. Government
18 Accountability Office in Washington, DC.

19 DAN MONROE: Since you're so handy, perhaps you
20 could just give us an overview of where you are in
21 the process. That would be, I think, valuable to
22 us in terms of being able to put some ideas or
23 recommendations on the table.

24 JEFF MALCOLM: Certainly. We have a request.
25 The GAO is part of the Legislative Branch of

1 government. We essentially work for Congress. In
2 this instance, we have a request from the Chairman
3 of the Indian Affairs Committee and the Chairman of
4 the House Natural Resources Committee, so it's a
5 bicameral request from both the House and the
6 Senate, to look at the implementation of NAGPRA,
7 specifically – again, it's directly related or
8 targeted at the Federal agencies.

9 There's a number of agencies that are
10 specifically identified or listed in the request we
11 received from the committees, all the Department of
12 the Interior agencies, so there we're focusing on
13 the five big land-management agencies within
14 Interior; the Corps of Engineers; the U.S. Forest
15 Service in the Department of Agriculture; TVA, the
16 Tennessee Valley Authority.

17 There's two other – well, three other
18 entities. Two other Federal agencies that are
19 mentioned at this point, we haven't found a lot of
20 conclusive information as far as including them as
21 we go forward, so we're potentially going to try to
22 scope them out. One was Customs and Borders, and
23 again I think they were included largely because of
24 the border fence issue. And the second agency was
25 the Federal Highways, and based on our preliminary

1 meetings with both those entities, they don't have
2 historic collections, so they're not dealing with
3 the collections issue. It's mainly, you know, as
4 they come around any new discoveries, and we talked
5 to Customs and Borders about the waivers that
6 they've issued as far as waiving NAGPRA for the
7 border fence and those types of issues. So I think
8 we're going to talk about taking those agencies
9 out. The other agency, of course, is the
10 Smithsonian, and the Smithsonian is covered by
11 separate legislation, so again that will be kind of
12 a separate piece but we have that to deal with as
13 well.

14 So we've had all our initial kickoff meetings
15 following the protocols that we have in having
16 kickoff meetings with the agencies. We're kind of
17 at the second round at this point, which is having
18 some individual follow-up meetings with those
19 agencies. We're on our way to Colorado, to Denver
20 on Sunday tomorrow, and to have our kind of main
21 follow-up meeting with the Bureau of Reclamation,
22 which is pretty much headquartered in Denver, and
23 then we'll have follow-up meetings while we're
24 there with regional offices of the National Park
25 Service, the state office of BLM, and the regional

1 office of Fish and Wildlife Service.

2 So shortly here we hope to conclude what we
3 call our design process, so we're still trying to
4 really identify kind of what the key issues are and
5 where we can add value to this process, where
6 there's gaps in information or things that we can
7 contribute to help look at if going to the Federal
8 agencies and ask them, you know, why aren't these
9 things getting published and why are you where
10 you're at on a lot of these things. So again, I
11 think Sherry's described kind of where their
12 process ends and where potentially we can pick up
13 some of that and carry it forward to follow up with
14 the agencies.

15 So once we come to kind of a conclusion of how
16 we're going to design the study, then we'll go back
17 up to the Congressional committees and have a
18 discussion about that and make a proposal and then
19 we'll get their buy in. And once we have
20 conclusion on exactly what the scope of the study
21 is going to be we will be able to determine how
22 long that's going to take. How many people we need
23 to talk to, how many agencies we need to go to, how
24 many locations we're going to visit is all going to
25 determine how long, but the typical report is a

1 year plus or minus, so I would suspect next
2 summer/fall timeframe we would be looking at a
3 final report.

4 So one of the other big issues that we're kind
5 of struggling with or trying to work out at this
6 point, and it's been helpful for us to be here, is
7 how to kind of contact or involve tribes in the
8 process and again trying to distinguish between
9 kind of the museum issues versus the Federal agency
10 issues. A lot of the tribes we've talked to
11 obviously and a lot of the stuff that was brought
12 before the committee dealt with the museum side of
13 the House and tribes' interactions with the museum.
14 So we're at this point just focusing on the Federal
15 side of it. So we're certainly interested in
16 hearing from tribes that have had experiences with
17 the Federal agencies and how those experiences have
18 been, both positive and negative, so we certainly
19 would appreciate your help in getting the word out
20 as much as possible and inviting people to talk to
21 us and we're certainly open to that. Thank you.

22 DAN MONROE: Thank you.

23 Yes, Rosita.

24 ROSITA WORL: So right now, you're just
25 focusing on Federal agencies and it is possible for

1 you to expand it if you got a directive from
2 Congress or someone from Indian Affairs or –

3 JEFF MALCOLM: This is my staff member, I'm
4 sorry, Maria Soriano, who is attending with me.
5 She's fairly new to the project. By expanding it,
6 you're referring to the museums or –

7 ROSITA WORL: Yeah, I'm – well, I'm
8 specifically talking about the dispute process and
9 the outcomes of our dispute findings. I mean, it
10 seems to me Congress would want – I mean, I think
11 they would want to know does this part of the law
12 work.

13 JEFF MALCOLM: Right. They're certainly
14 interested in the oversight and enforcement or just
15 general oversight of the implementation of the Act.
16 So yes, they're certainly interested in that. I
17 think the role of the Review Committee and the
18 issues that have come before the committee and
19 those types of things, and I recognize at some
20 point that it's a little bit of an artificial
21 distinction between the museum side and the Federal
22 agency side, and that would be something I guess I
23 would have to think about as far as these disputes
24 that have come forward and are they disputes
25 primarily involving museums or Federal agencies or

1 both and mixing those together.

2 But again I'm not that familiar with the
3 entire history of how many disputes we're talking
4 about, so my guess is it wouldn't be that many and
5 it wouldn't be that difficult to do, so I would
6 lean towards saying, you know, if that's an issue
7 that's important we could go ahead and include
8 that. As far as including the museums and
9 everything, I don't think that's possible at this
10 time. If that's an area that they'd like a follow
11 on, we could certainly talk about doing them next.
12 But I think, you know, a suggestion or a
13 recommendation from the Review Committee that we
14 try to include that, I think that's something we
15 could do.

16 DAN MONROE: I think one of the concerns
17 pertains to the fact that, as was pointed out, the
18 process ends with the publication of notice or with
19 a finding made by the Review Committee in the case
20 of a dispute, and there really isn't any mechanism
21 in place that provides statutory authority directly
22 for going beyond that to do any sort of follow up.
23 In other words, a finding was made, a decision was
24 rendered, what's the outcome of that? And is that
25 - which is obviously crucial to the integrity of

1 the Act.

2 And so we're very concerned, I think, about
3 being able to have some information on the table
4 that would enable both the Review Committee, the
5 NAGPRA Program and Congress, all of them actually,
6 to make some judgments as to whether or not this
7 process is in fact working, and if it's not working
8 what kinds of remedial actions may be appropriate
9 and necessary. If in fact, we don't see outcomes
10 that indicate the success of this entire elaborate
11 process, then clearly some steps ought to be taken
12 to assure that it's possible that the Act be more
13 effective, whether that's through amendment or some
14 other kind of action. So I think that's really the
15 principle focus, and please feel free to step in,
16 any other Review Committee member, but that
17 certainly is a concern that we have.

18 **REVIEW COMMITTEE MOTION**

19 ROSITA WORL: Mr. Chair, I would like to have
20 it as a formal request for the record that the
21 NAGPRA Review Committee would respectfully request
22 that GAO consider the inclusion of the dispute –
23 the outcomes of the dispute findings, and I would
24 move that, Mr. Chair, for the record.

25 DAN MONROE: Yes, Stephen.

1 STEPHEN SIMPSON: I would just suggest,
2 Mr. Chairman, that if the committee wanted to do
3 that formally that the best way to do that would
4 probably be a letter, I assume, from the committee
5 to GAO and that it not be written – that it be
6 written by the committee itself rather than by the
7 DFO, because it's much more appropriate coming from
8 the committee itself rather than from the program.

9 DAN MONROE: Right. We'll let the motion
10 stand.

11 STEPHEN SIMPSON: Certainly.

12 DAN MONROE: The motion still applies.

13 STEPHEN SIMPSON: Certainly.

14 DAN MONROE: And then we'll talk about the
15 means to implement it. First, is there a second to
16 the motion?

17 SONYA ATALAY: I second.

18 DAN MONROE: Any further discussion? All those
19 in favor signify by saying aye.

20 SONYA ATALAY: Aye.

21 DONNA AUGUSTINE: Aye.

22 ERIC HEMENWAY: Aye.

23 DAN MONROE: Aye.

24 ROSITA WORL: Aye.

25 MERVIN WRIGHT, JR.: Aye.

1 DAN MONROE: And opposed?

2 Motion carries. Let's proceed on the basis of
3 the recommendation that the motion be implemented
4 through a letter from the Review Committee to GAO
5 and not through the DFO. Is that acceptable to
6 everyone?

7 SONYA ATALAY: Yes.

8 DAN MONROE: Very good. Thank you very much.

9 JEFF MALCOLM: Thank you, and I'll just add one
10 more comment. Basically in our reports at the end
11 we have two types of recommendations. One we don't
12 really call a recommendation, but the first would
13 be what we call a matter for Congressional
14 consideration. We work for Congress and we can't
15 tell them or recommend that they do something. We
16 can just say please consider this, so we call those
17 matters again for Congressional consideration. So
18 if there are areas in the law such as you described
19 that again may be gaps or things where you need
20 Congressional action to amend the law that's how we
21 carry those things and present those things to
22 Congress to say we've identified some issues with
23 the law that may need to be revisited and clarified
24 and we certainly do that on a regular basis.

25 The second is we make actual recommendations

1 to the Executive Branch agencies, so if we find
2 areas of deficiencies for the Executive branch
3 agencies we make specific recommendations to them.
4 Thank you.

5 DAN MONROE: Very helpful. Thank you both.

6 MARIA SORIANO: Thank you.

7 SHERRY HUTT: And if I might, before we leave
8 this topic, I was looking for the date, the start
9 date for the intern, but we have a third – rising
10 third 3L, in other words she'll be a third-year law
11 student next fall, so she's coming to National
12 NAGPRA – coming to DC this summer, and this is her
13 research topic is to go through all of the Review
14 Committee decisions.

15 DAN MONROE: Great.

16 MERVIN WRIGHT, JR.: Mr. Chairman?

17 DAN MONROE: Yes.

18 **DISCUSSION OF 2008 REPORT TO CONGRESS**

19 MERVIN WRIGHT, JR.: I've just got a question
20 regarding the report. You mentioned the CUI
21 inventory or is there going to be a number attached
22 to that, as far as the culturally unidentifiable
23 inventory? I know that – I know that process was
24 started and I know that there were numbers that
25 were put out there. Is there a number that can be

1 included in the 2008 report?

2 SHERRY HUTT: In terms of the number of CUI as
3 of 2008? Sure, you can – I'll get the exact
4 number. It's in the annual report from FY08 that
5 we did in October of '08. It's approximately
6 123,000. I think that is – it's higher now because
7 we're receiving more inventories. We're receiving
8 inventories all the time and updates on
9 inventories, but it would be the '08 number rather
10 than the '09 number, which is what I gave you
11 yesterday. And I can get –

12 SONYA ATALAY: Yes, on the report, the number
13 that I found from the 2008 – October 2008, was
14 118,400 Native American human remains and 828,641
15 associated funerary objects in the CUI database at
16 that point, which is now 124-something –

17 SHERRY HUTT: 124,000.

18 SONYA ATALAY: – yeah, from yesterday.

19 MERVIN WRIGHT, JR.: I think it would be
20 important, you know, to recognize even though
21 culturally unidentifiable is not an official part
22 of the statute or the regulation, you know, how
23 that number has come to increase. I know that
24 after NAGPRA was enacted many, many collections
25 transferred status from affiliated to unaffiliated

1 because of that terminology. But I guess, you
2 know, as we work through this process it would be
3 interesting to know how these museums in completing
4 inventories and when they completed the affiliation
5 on a lot of these collections, you know, when did
6 that occur, because I know that after 1990 a lot of
7 that happened.

8 **REVIEW COMMITTEE MOTION**

9 MERVIN WRIGHT, JR.: And the only other comment
10 that I had on the report was with regard to the
11 legislation, the amendment, the definition of
12 Native American "or was," I know that the Review
13 Committee affirmed its support for that legislative
14 fix and I would like to see if we would reaffirm
15 that at this point.

16 ROSITA WORL: Second.

17 DAN MONROE: So we have a motion and a second
18 to reaffirm. Any discussion?

19 All in favor say aye.

20 SONYA ATALAY: Aye.

21 DONNA AUGUSTINE: Aye.

22 ERIC HEMENWAY: Aye.

23 DAN MONROE: Aye.

24 ROSITA WORL: Aye.

25 MERVIN WRIGHT, JR.: Aye.

1 DAN MONROE: I have a question. Refresh my
2 memory, but this is a 2008 report and we're
3 wrapping up 2009 in a couple of months. Can you –
4 is this a pattern that we've perpetuated in the
5 past or –

6 SHERRY HUTT: Well, you might have wrapped it
7 up at your last meeting but your Chair moved it
8 off, so you didn't – there were a couple of
9 business items you just didn't take up last time.
10 So you could, rapidly on the heels of the '08
11 report, do the '09 report. In fact you could start
12 to work on that right now if you'd like to.

13 **HOUSE NATURAL RESOURCES COMMITTEE HEARING ON NAGPRA**
14 **- OCTOBER 7, 2009**

15 DAN MONROE: Let's come back to that, and I'd
16 like to move to a discussion of the recent
17 Congressional hearing held at the Department of
18 Natural Resources and the House on NAGPRA. And I
19 would just point out for the record that we
20 obviously appreciate the fact that there is
21 Congressional interest in NAGPRA and its
22 implementation and we hope that that initial
23 hearing will be followed up with some additional
24 opportunities for both – for tribes and museums to
25 participate in providing testimony on the status of

1 NAGPRA. As a matter of fact, the hearing was held
2 with very short notice. There were no invitations
3 extended to tribes or to museums or organizations
4 to recommend individuals to testify at those
5 hearings. The list of individuals who did testify
6 was not released until the day before the hearing
7 commenced and it was a very small group. So I
8 don't think that everybody on the committee has had
9 a chance to really hear or understand what occurred
10 in those hearings and I'd like to have some
11 discussion of that. Is it possible for one of you
12 to summarize what was discussed – presented at that
13 hearing?

14 SHERRY HUTT: Well, what I'd like to do is from
15 the program's perspective what we were asked to
16 present and presented, and then if you would
17 summarize the rest of the testimony?

18 STEPHEN SIMPSON: I'll try.

19 SHERRY HUTT: Okay. The program was asked a
20 number of questions with regard to the 300 notices
21 that we removed from publication, and we went back
22 to the 300 notices that were on hold, and diaried
23 where they are today, and based on that we were
24 able to indicate that 221 of those 300 had
25 published. Most of those had published prior to

1 2008 and of the ones that were left there were a
2 number that had been closed. They probably could
3 have been administratively closed but they were
4 closed by the originator because they were
5 duplicates, the originator did not receive Federal
6 funds, did not have control of the collection or it
7 was improperly submitted because it was more
8 properly a newspaper notice. In other words, in
9 '95 a Federal agency had a new find on the land and
10 submitted a NAGPRA notice for publication in the
11 Federal Register when it was really a newspaper
12 notice that they went ahead and submitted. So that
13 open file on the notice was sitting there and it
14 should have been closed at some point. So there
15 were about 10 percent of the original 300 that were
16 still open.

17 We then were asked to make copies of the
18 notice and the correspondence between the National
19 NAGPRA Program and the museum or Fed agency with
20 regard to those and I can summarize that
21 correspondence in this way. It would be an email
22 from Jaime saying are you ready to publish and then
23 being told, well, our board will come together or
24 we'll do this or we'll hire a person or whatever in
25 March. And then in April Jaime would respond to

1 them, it's now April, you know, are you ready now?
2 So it's a – I think the records, if you wanted to
3 see them, would disclose the actions that were
4 taken to move those notices to publication. In any
5 event, there are 22 of those notices as I reported
6 to you yesterday that are still open.

7 So the bottom line was that we reported that
8 there were not 300 notices removed but 300 notices
9 put into the process. And I think the other things
10 were just status on the NAGPRA Program, the process
11 of – the status of the CUI rule, which at that
12 point was pending – was going to OMB, and it was a
13 very – I think that was very brief.

14 STEPHEN SIMPSON: That was largely it. There
15 was testimony, Mr. Chairman, from the Caddo Nation
16 of Oklahoma, as I remember. Unfortunately I didn't
17 bring my notes with me, but as I remember it was
18 largely about grants, because they had applied for
19 grants and gotten them in the past and then were
20 turned down for one. It was unclear from their
21 testimony why they were turned down. There was –
22 but they – but that said, they also testified about
23 the rest of the NAGPRA process and came out very
24 strongly and testified very strongly in favor of
25 more training and in favor of how the process is

1 generally working well.

2 There was testimony from the Western Apache
3 Coalition largely on basically the same issue you
4 heard yesterday morning about the contents of
5 notices on summaries and their concerns about the
6 category of the item not being named.

7 As Sherry indicated, there was testimony from
8 the Society for American Archaeology on the
9 culturally unidentifiable rule that largely
10 mirrored their comments on the rule. And there was
11 testimony from the National Association of Tribal
12 Historic Preservation Officers and from Mr. Kippen,
13 the former member and chair of this committee,
14 concerning to a certain extent the NAGPRA Program
15 in general, also the notice issue that Sherry
16 mentioned, and to a certain extent the difficult
17 job that the committee has in synthesizing all of
18 the information that is given to the committee and
19 all the work the committee is asked to do.

20 As with most of these sorts of hearings, there
21 were also a few stray questions from the – from the
22 Congress. The most notable of which that I
23 remember was one asking if the indigenous peoples
24 of the territories were included in NAGPRA. We
25 advised the committee that they were not under the

1 Statute. The committee thought about – may think
2 about including that, they may not. But that's
3 generally what happened.

4 DAN MONROE: I found it interesting that no
5 member of the Review Committee currently was asked
6 to testify, nor was the Review Committee, which is
7 the only statutorily designated body to make
8 comment and reports to Congress, involved in the
9 process. And I haven't seen any detailed
10 transcript of the testimony, and I appreciate your
11 summary. And I'm sure that it was valuable
12 testimony but I would only add that I think that
13 there would be value in having a much broader
14 spectrum of viewpoints brought to the table for
15 Congress to consider from tribes or museums about
16 NAGPRA and ways in which it may be working or not
17 working particularly in concert with the GAO study
18 that we just discussed.

19 And I bring all of that up because I think
20 that it has a bearing also on what we may consider
21 doing with respect to the annual report to
22 Congress. It would make sense, I think, for us to
23 not only submit the 2008 report but to move
24 expeditiously to prepare a 2009 report to Congress
25 that could be very timely in many respects. And so

1 I would put that on the table for the committee to
2 discuss as a possibility and also entertain any
3 ideas you may have or suggestions regarding ways
4 that we can encourage that in the future there be
5 opportunity for tribes and museums to provide
6 testimony. There was a two-week period I believe
7 after the hearing was held for receipt of testimony
8 but of course most people had no idea that the
9 hearing occurred in the first place or any idea
10 what the real agenda was.

11 **DISCUSSION OF 2008 AND 2009 REPORT TO CONGRESS**

12 DAN MONROE: So with that, let's move to a
13 discussion of the notion of speeding up the process
14 with respect to 2009 and also with respect to the
15 specific kinds of recommendations we want to put in
16 either or both the 2008 and '09 reports.

17 SHERRY HUTT: Could I just footnote one thing?

18 DAN MONROE: Yes.

19 SHERRY HUTT: The House Committee has asked
20 about Review Committee annual reports and the ones
21 coming, and it's very precious to have the time of
22 a Congressional committee. And I don't want you to
23 think that the Senate side is no less interested –

24 DAN MONROE: right.

25 SHERRY HUTT: – in NAGPRA. Senator Inouye had

1 asked for a briefing just to know how things were
2 going rather than having a hearing. So we have had
3 the opportunity to update them. So they too are
4 still watching over you and looking forward to
5 receiving your reports.

6 DAN MONROE: Yes, and I think that those are
7 again reasons for us to consider not only finishing
8 the 2008 but also completing the 2009 report in a
9 more timely manner than we've perhaps always done
10 in the past.

11 SONYA ATALAY: I appreciate your comments,
12 Mr. Chair, and I'm — particularly as someone who is
13 just working on writing this report, one of the
14 issues that I found a little bit challenging is in
15 the Barriers Encountered section, I found myself
16 continually wondering or wishing that I had further
17 input from tribes in terms of what kind of barriers
18 they've encountered that we could write about. And
19 I was happy to hear some of that testimony in the
20 hearings, but I certainly think that that would be
21 a great place to — we need to hear more of that in
22 order to write an accurate report of what kind of
23 barriers have been encountered on the — in terms of
24 tribes and museums and Federal agencies so that we
25 can write a comprehensive report.

1 DAN MONROE: Right. Right. Thank you. Other
2 comments?

3 ROSITA WORL: Mr. Chair? I think I liked your
4 recommendation proceeding on the 2009 report, but
5 I'm not volunteering. Every time I open up my
6 mouth I get assigned something, but I do think it
7 would be worthy to include in that 2009 report a
8 recommendation to Congress that in view of the 20-
9 year anniversary of NAGPRA that the -- that Congress
10 have hearings and maybe even throughout the country
11 to hear from museums, tribes, other interest groups
12 about how has NAGPRA been working, you know, what
13 do we -- what do we want to see for the future. So
14 I would like to have that included as a
15 recommendation in the 2009 report.

16 I had heard about the last hearing and I
17 immediately wrote to request -- I don't know if I --
18 I think I was not on the committee at the time, but
19 I immediately submitted a request through our
20 delegation to testify at that hearing because many
21 issues I was concerned about, you know, one on
22 pesticides and our lack of focus, our lack of funds
23 to deal with that issue, and that was one issue
24 that I had wanted to bring and I was surprised to
25 learn that it had already closed. They wouldn't

1 even release who was going to be testifying. I
2 found that very interesting, so I'm glad, you know,
3 that - and I think it's important to have an open
4 hearing where tribes and museums and other groups
5 can testify, and I think it's timely. So I'm
6 hoping we'll go ahead and include that in our
7 report.

8 DAN MONROE: Thank you. Other comments?

9 So what I'd like to do is to move to complete
10 the 2008 report. And if you can remind me, are
11 there any constraints on the manner in which we do
12 this? We can - this is an administrative matter -

13 SHERRY HUTT: You can appoint a subcommittee.

14 DAN MONROE: - so we can actually do a round
15 robin with email and make suggestions and
16 recommendations that way, since this is an
17 administrative matter, and the same can be done in
18 preparing a 2009 report. And I'd like to ask that
19 the committee, in fact, proceed in that way, so
20 that, Sonya, when you and Alan are ready to submit
21 that if you would send it around to all of us and
22 get our input and suggestions, and we'll put a time
23 limit on this just to make sure that we move it
24 forward. And then I will later today ask one or
25 two or three of you to serve on a committee to -

1 subcommittee to put together a 2009 report draft,
2 and we will set some timelines with your permission
3 on completing that as well, so that we can get it
4 done in a manner that will be I think most helpful.

5 And I would endorse very strongly the notion
6 that we encourage Congress to hold some broader
7 hearings. This was a good indication of their
8 interest and we very much appreciate that, but it's
9 obviously critically important that there be a –
10 there are a broad spectrum of viewpoints on NAGPRA
11 within the federally designated tribal community
12 and within the museum community, and I think it's
13 very, very essential that those viewpoints be aired
14 and considered as we look at the success of this
15 legislation over a 20-year period. And so that
16 definitely should be, I believe, a recommendation
17 we strongly make. And there are others as well,
18 some of which we've touched on, but we'll work on
19 refining those through this process I've just
20 outlined.

21 Does that meet with everyone's approval? Very
22 good.

23 Then thank you all and thank you again for
24 your summary of the GAO situation. We appreciate
25 that.

1 STEPHEN SIMPSON: Mr. Chairman?

2 DAN MONROE: Yes.

3 STEPHEN SIMPSON: While the committee could
4 certainly prepare the 2008 report in the manner
5 you've suggested, we would note that – advise that
6 it be approved in a public meeting, probably the
7 one in the spring.

8 DAN MONROE: The 2008 report has to be approved
9 in the public meeting?

10 STEPHEN SIMPSON: Yes.

11 ROSITA WORL: Can we not approve of the
12 conceptual – the draft report that we've heard here
13 so that that could be sent forward?

14 DAN MONROE: Can we just approve –

15 STEPHEN SIMPSON: You could approve it as
16 amended, as amended by the discussion in this
17 meeting.

18 DAN MONROE: Can you be more clear-cut about
19 the requirements?

20 STEPHEN SIMPSON: I'm sorry. I'm sorry. While
21 the report is an administrative matter and you can
22 deal with administrative matters outside of a
23 public meeting, the approval of such a report and
24 the – the preparation of the report is an
25 administrative matter. The approval of such a

1 report and its transmittal to Congress would be a
2 recommendation from – a more substantive matter I
3 think than – and would need to be – under the
4 Federal Advisory Committee Act, would need to be
5 done in a public meeting. I think you probably
6 could approve the 2008 report as amended by – the
7 draft as amended by this discussion of the
8 disputes, the dispositions or whatever it was, at
9 this meeting if you would like to do that, and
10 instruct the committee to finish the report and –
11 the subcommittee to finish the report in accordance
12 with this discussion and that it then be
13 transmitted to Congress.

14 DAN MONROE: So is a teleconference meeting
15 considered a public meeting?

16 STEPHEN SIMPSON: Yes, it could be. We could
17 do it – we could do – we could set up a public
18 teleconference meeting. The one on the
19 regulations, the CUI regulations was a public
20 meeting.

21 SHERRY HUTT: We need 30 days notice on that.

22 STEPHEN SIMPSON: We do need 30 days notice to
23 do that, however.

24 DAN MONROE: What if we outlined both the 2008
25 and 2009 reports in this meeting?

1 STEPHEN SIMPSON: If you –

2 DAN MONROE: In other words, the substantive
3 content of both reports would be outlined in this
4 meeting and we would then refine them and submit
5 them, as a part of the administrative process. My
6 concern is the timeliness.

7 STEPHEN SIMPSON: Certainly, I understand.
8 What I would think might be a good way to handle
9 that is to approve the 2008 report as amended now,
10 set up your committee for the – your subcommittee
11 to work on the 2009 report, and do that sort of –
12 not only the drafting but also the discussion as an
13 – again, as an administrative matter between now
14 and the spring meeting that you could do
15 telephonically and approve that.

16 DAN MONROE: So the answer is no go. Okay.

17 STEPHEN SIMPSON: You want to – if you're going
18 to approve the 2009 report, you want to know a
19 little more about what it says, I think.

20 DAN MONROE: Yeah, well, I suspect we could do
21 that, but this will suffice, I think. We'll
22 complete the 2008 report, approve it formally at
23 this meeting –

24 STEPHEN SIMPSON: Right. Right.

25 DAN MONROE: – finish it and get it submitted

1 and concurrently begin work on the 2009 and
2 presumably approve it at a public meeting in the
3 spring, either in person or if necessary by
4 teleconference, public teleconference meeting.

5 STEPHEN SIMPSON: Right.

6 **REVIEW COMMITTEE MOTION**

7 DAN MONROE: And we'll proceed on that basis,
8 very good. So in order to do that can we formally
9 approve the report as amended now, with the
10 understanding that we will make some further
11 refinements as a part of the administrative
12 process. Could I have a motion to that effect?

13 MERVIN WRIGHT, JR.: I'll make that motion.

14 DAN MONROE: Is there a second?

15 ERIC HEMENWAY: Second.

16 ROSITA WORL: I'll second.

17 DAN MONROE: Been moved and seconded. All in
18 favor say aye.

19 SONYA ATALAY: Aye.

20 DONNA AUGUSTINE: Aye.

21 ERIC HEMENWAY: Aye.

22 DAN MONROE: Aye.

23 ROSITA WORL: Aye.

24 MERVIN WRIGHT, JR.: Aye.

25 DAN MONROE: And we'll proceed on that basis.

1 Thank you very much.

2 COMMENTS FROM THE REVIEW COMMITTEE FOR THE DRAFTERS
3 OF A PROPOSED RULE REGARDING THE DISPOSITION OF
4 UNCLAIMED HUMAN REMAINS, FUNERARY OBJECTS, SACRED
5 OBJECTS, OR OBJECTS OF CULTURAL PATRIMONY
6 DISCOVERED ON FEDERAL OR TRIBAL LANDS AFTER
7 NOVEMBER 16, 1990 (TO BE CODIFIED AT 43 CFR 10.7)

8 DAN MONROE: Let's move to the beginning of the
9 discussion on comments from the Review Committee
10 for the drafters of a proposed rule regarding the
11 disposition of unclaimed human remains, funerary
12 objects, sacred objects or objects of cultural
13 patrimony discovered on Federal or tribal lands
14 after November 16, 1990, to be codified as 43 CFR
15 10.7.

16 Are there comments by members of the committee
17 on those proposed rules? Yes.

18 ROSITA WORL: Yes, Mr. Chair. Unfortunately, I
19 didn't read that report. I didn't have that report
20 that I guess was submitted at the last meeting.
21 I'd like to have a copy of that.

22 SHERRY HUTT: Tab 16 -

23 STEPHEN SIMPSON: It's in tab 16 of your
24 binder.

25 ROSITA WORL: The report? No, the report is

1 not in there, but the proposed language is in there
2 for – I mean, the proposed rule is in there. But
3 on page – on the second page there are two issues
4 that I'd like to comment on. And the first issue
5 says, should unclaimed objects continue to be
6 retained by the managers of the lands on which the
7 object or objects were excavated or discovered?
8 And my sense would be no. I would rather have them
9 go back to either a central repository for
10 unclaimed objects, and I guess we would need to
11 have one established. I don't know if there's been
12 some discussion with NMAI about this possibility.
13 But that would be my preference, would be that we
14 would have a repository, a central repository.

15 And also, secondly, I would like to have the
16 option of having regional repositories for these
17 objects. And I'm thinking about my homeland in
18 Southeast Alaska, where it's a contiguous area. We
19 know that we've been in that region, you know, for
20 10,000 years. We're doing everything that we can
21 to bring ancestors and objects back home, and our
22 region I know would be open to having a regional
23 repository, so I'd like to add that as a
24 consideration for this proposed rule.

25 DAN MONROE: Thank you. Other comments?

1 Yes, Donna, and then Mervin.

2 DONNA AUGUSTINE: No, you go ahead.

3 MERVIN WRIGHT, JR.: All right. On the first
4 page under definition, you have three listed items
5 there. I think number (3) is redundant. I don't
6 think the Federal land manager - I mean, it just
7 says the identified potential claimant - I'm
8 reading number (1), the identified potential
9 claimant with standing to make a claim does not
10 exercise that right to claim an object, that's the
11 same thing as number (3), correct?

12 SHERRY HUTT: Well, (3) might be a catchall to
13 be more broad. In other words, you might think
14 that certain tribes might - federally recognized
15 tribes from that area aboriginally might make a
16 claim and then (3) is any potential claimant, which
17 might be then after federally recognized tribes
18 have been acknowledged in having had this superior
19 right, the government-to-government relationship,
20 are there groups that also might have claims to
21 these items. So (3) is that catchall, always
22 acknowledging the federally recognized tribes
23 first, and then you have other claimants, as you
24 see in (2), that don't have legal standing. Are
25 there others that you might also consult with to

1 consider before you come to a final decision? So
2 it's a catchall.

3 MERVIN WRIGHT, JR.: I just don't want to give
4 the impression that a Federal land manager, you
5 know, has additional authorities that they cannot,
6 you know, identify.

7 CARLA MATTIX: I think the last category is
8 going to cover the situation where there is no
9 claimant whatsoever, and the Federal land manager
10 in that case does have the responsibility still to
11 care for that item because it came from the Federal
12 lands. So I think that - until another - a
13 claimant maybe can be identified in the future
14 that's just not known at that point, it does - it
15 does, like Sherry said, provide a catchall category
16 of what happens in that interim period when they've
17 done everything they can to find a claimant under
18 the first two but they still have to care for that
19 item until sometime in the future when perhaps a
20 claimant can be found.

21 SHERRY HUTT: And the committee was concerned
22 that this rule start by defining what should be
23 because if you have a new find on the land and you
24 have several tribes that come forward, can a land
25 manager say in the face of five claims I have no

1 claim because they don't find them to be sufficient
2 claims. So I wanted to - I think your concern is
3 understood by the drafting group, and we'll see
4 that when you see actual drafts of rule. But
5 conceptually the idea was to always go back and say
6 why are we here, have you done what you should have
7 done under the law, and sort of recap and go from
8 there. Does that meet your concern?

9 MERVIN WRIGHT, JR.: Yes.

10 SHERRY HUTT: If you would - the central
11 repository was one item that the drafting group did
12 want your thoughts and input on. Another was use
13 of the items while they have - are in that
14 unclaimed posture. What is the guidance on access
15 and use that you would recommend during that period
16 of time? Do you have some specific thoughts on
17 that or - this is the - while a Federal agency -
18 when a Federal agency exhumes something, they then
19 have a fiduciary responsibility for curation and
20 care. So part of what this rule may address is
21 that curation and care responsibility, and part and
22 parcel of that is what are the access and use
23 opportunities during that same period. Am I
24 expressing it correctly? So those are some of the
25 areas in which they also wanted your further

1 guidance and input.

2 DAN MONROE: Yes.

3 DONNA AUGUSTINE: Okay. On that note that you
4 just talked about, Sherry – can you hear me? Okay.
5 For the use, I think that if they are eventually
6 put into a central repository that I would suggest
7 that nothing be used, because right away these
8 warning bells went off in my mind because this
9 morning when it was mentioned that they're used for
10 educational purposes, it – you know, the remains
11 especially but even for the funerary objects and
12 everything that's included, until – until someone
13 puts forth the claim, not to be used at all, just
14 to be kept there.

15 And then I'm going to go back to the – to what
16 Mervin had just talked about on unidentified and it
17 says, an unidentified potential claimant with
18 standing – okay, a cultural item is considered an
19 unclaimed object if an identified potential
20 claimant with standing to make a claim does not
21 exercise their right to claim an object, and (2),
22 an identified potential claimant does not have
23 legal standing to make a claim for an object.

24 A lot of times, nonfederally recognized tribes
25 have put forth claims when no other tribe has

1 brought forth a claim. And how would they know,
2 how would they be told that these – that this even
3 exists because at the training, the first day of
4 training here two days ago there were two
5 individuals that came up to me after and said that
6 here in Florida that there were some remains and
7 the museums let some – let the federally recognized
8 tribes know but nobody came forward, but I know
9 that there's nonfederally recognized tribes here in
10 Florida. Instead the museum gave the remains to a
11 group who are not Native and they even had it
12 posted, I guess it was just sent to me online, and
13 that they did the reburial and they're not even
14 Native. Like where – there's something wrong
15 there. And so I would say that the nonfederally
16 recognized tribe should have had – should have been
17 able to retrieve – claim – put a claim on those
18 remains or at least for repatriated to the
19 nonfederally recognized tribes.

20 And if in the end, it says on number (3), the
21 Federal land manager cannot identify any potential
22 claimants for an object, let's say if they don't –
23 they say, well, nonfederally recognized tribe does
24 not have a legal standing to make a claim, in the
25 end would a federally recognized tribe be able to

1 come in and to say almost like adopt or to help
2 that nonfederally recognized tribe to be able to
3 make that claim?

4 CARLA MATTIX: Can I – maybe if I just provide
5 some more context. This portion of the reg that
6 deals with unclaimed remains will be for Section 3,
7 which is in the inadvertent discovery, planned
8 excavation section. So if you'll recall in Section
9 3, there's for human remains and other cultural
10 items found on Federal or tribal lands, there's a
11 process you go through and a set of custody
12 provisions that come into play first and that is
13 usually when you have a lineal descendent or you
14 have a federally recognized tribe that's culturally
15 affiliated and all those first custody provisions.

16 So this section of the rule is going to come
17 into play when you don't have those and it is going
18 to take into account under this name unclaimed,
19 which is the terminology in the Statute, this rule
20 is going to be able to reach out to the
21 nonfederally recognized tribes just like in the CUI
22 instance, because in the Statute they're not
23 specifically – there's not a provision where they
24 can specifically have things repatriated to them.
25 In the regulation we are providing for that, at

1 least that potential. And that's what's happening
2 here. So this rule is designed actually to reach
3 out by including them in the definition here it is
4 designed to reach out to those groups.

5 DONNA AUGUSTINE: And just be careful of the
6 danger too of, like, I don't want to say the word
7 "new age," but you know what I mean? Like people
8 that are not even Native that – especially for
9 somebody to put it on a newspaper and to advertise
10 that they had a reburial and they weren't Native,
11 it just really – you know.

12 STEPHEN SIMPSON: Well, when I mentioned
13 yesterday – the other day in the training, Donna,
14 as I mentioned, that there was – we can't talk a
15 lot about what's in this rule that isn't yet
16 published. But we seem to be talking more and more
17 about it. There is – we've been very careful to
18 try and protect the rights of the federally
19 recognized tribes in that rule and to be careful in
20 the instance where we are moving beyond – where
21 there is the possibility that we would be moving
22 beyond federally recognized tribes to put in a role
23 for the Secretary and probably the Review Committee
24 in that kind of context. And I think, you know,
25 it's reasonable to think that we may use that same

1 sort of a precedent in this rule to try and make
2 sure that we have those, you know, that those
3 tribes' rights are protected and that there is -
4 that the cultural connection that the - that the
5 Congress seemed - was the intent I think of
6 Congress and is the driving force behind
7 repatriation to try and get it to the right people.

8 SHERRY HUTT: But in any event, if a federally
9 recognized tribe came forward in the process as it
10 now stands under Section 3, speaking for another
11 tribe that - or a group rather, then you wouldn't
12 fall into unclaimed because you'd have a claim from
13 a federally recognized tribe.

14 One point I might note - have you look at is
15 the last page that says notice, and then the
16 substance of it is on the very - is on the fourth
17 page. The idea of establishing a database so that
18 those that are unclaimed, and you don't know who
19 perhaps to speak to in terms of fostering
20 consultation and outreach, that those items be -
21 there be a reporting mechanism to a database as an
22 additional tool. Is that something that's
23 consistent with what you're thinking?

24 DONNA AUGUSTINE: Okay. I remember one time we
25 were at a meeting and one Passamaquoddy Elder got

1 up and she said to us there is no such thing as
2 unclaimed when they're our relatives. So on that
3 note that hopefully in the end that I know that the
4 many various tribes that work on repatriation,
5 again we feel that affinity to one another. And
6 even when we're talking about the remains, it's
7 before Federal recognition. It's way — you know,
8 the remains we're dealing with are way before then
9 for sure, before there were even states, before
10 there was United States, Canada, and so forth. So
11 it would be really good to know that there's
12 somehow in this wording of this whole document that
13 there are no — there is nothing that is going to
14 box us in, because we have to also think of the
15 future.

16 There might be some — we don't want to leave
17 ancestors remains especially just left behind.
18 When we talk about — we hear about that No Child
19 Left Behind, well, I think of there should be No
20 Ancestor Left Behind, and I'm sure that the ones
21 that work on repatriation ultimately then will come
22 forth to retrieve and to rebury these remains
23 because that's what we're doing. And just to know
24 that there are so many thousands of ancestral
25 remains that are still out there, so it's a lot of

1 work that – and I recognize the fact that – this is
2 after 1990, I do recognize the fact, so just don't
3 close them in in any way. Leave it open somehow so
4 that at some point they will all be returned back
5 to the earth. That's just my feeling, I guess,
6 from my spirit.

7 DAN MONROE: Other comments? Yes, Eric.

8 ROSITA WORL: Oh, sorry. Go ahead.

9 ERIC HEMENWAY: I have a comment about the
10 access to unclaimed items. I would like to see
11 tribes have access to items but in a similar way
12 that they do a CUI disposition, that all the tribes
13 who are from that area would come and make a formal
14 compact with each other that they recognize each
15 other and if a nonfederally recognized tribe wants
16 to have access to these items to work in
17 partnership with the federally recognized tribes to
18 have access so if there is need for a ceremony with
19 these items or whatnot they would still have the
20 ability to do this but in a sacred manner and it
21 would allow them to work together and work with
22 them until there is a final disposition of the
23 items to a particular group. So something that
24 mirrors what we're doing with the disposition where
25 the tribes come together, they formally recognize –

1 they sign maybe a formal agreement with each other
2 and then it goes to the central repository. And
3 then the repository has this, you know, formal list
4 of who is who in their area, and they would contact
5 all the tribes who were aboriginally from that area
6 or were currently in that area so they would have I
7 think the most pertinent partners to the items
8 themselves. Thank you.

9 DAN MONROE: Thank you. Rosita.

10 ROSITA WORL: Thank you, Mr. Chair. I was just
11 trying to think this through. With the unclaimed –
12 and I'll be speaking to the human remains right
13 now, we may have some which are culturally
14 identified, we may have some that are culturally
15 unidentifiable or CUI, and so – but so we could
16 have both of this – those on the list, unclaimed.
17 That's possible.

18 SHERRY HUTT: Well, it – go ahead. The
19 situation on the land is a bit different because
20 you have absolute provenance you would have more
21 information perhaps than you might have in a
22 collection. So the law sets up categories and
23 hierarchies. Are you on tribal – do you have
24 lineal descendants, are you on tribal land, do you
25 have culturally affiliated? And then it actually

1 has an aboriginal category right there in the
2 hierarchy in the law right now, so you don't need
3 to show cultural affiliation but you may have
4 aboriginal nexus and therefore be the claimant, so
5 – but what that does in the law is it sets up a
6 hierarchy of claimants so that if a land manager is
7 faced with numerous claimants and needs to
8 delineate among them that there can be a hierarchy
9 of who gets priority of claim. But when you get
10 down to the bottom, you have unclaimed. So the
11 first thing this rule does is make sure to identify
12 what is really unclaimed. If you have tribes
13 standing there at your door claiming, it's not
14 unclaimed. I mean, you need – you have an
15 obligation to communicate, to consult. So
16 unclaimed is what do you have with those for whom
17 no one speaks or chooses to speak, what should you
18 do? And how long might you keep them in a
19 repository and then maybe – or like a regional
20 repository before putting them in a central
21 repository? What are your obligations to those and
22 what might – additional consultation kinds of
23 things might you be obligated to do? What
24 additional steps might you take? So it's the
25 obligation of the items and additional steps. One

1 of the additional steps was a database because that
2 fosters notification and consultation. So that's -

3 ROSITA WORL: So that supports the need for a
4 database.

5 SHERRY HUTT: Right.

6 ROSITA WORL: I mean, if - I mean, we'll never
7 find out about them unless it's, you know, we know
8 about them somewhere. So to me -

9 SHERRY HUTT: And one of the things that the
10 drafters are struggling with here is that with
11 regard to some of the other reserve sections, some
12 of the other things that we've dealt with in
13 regulation, there was at least anecdotally an
14 expressed need or concerns, and it - we don't have
15 a lot of that to work with. And I've said this
16 before, but I really believe that it indicates that
17 Federal agencies, new finds on the land are
18 consulting and we don't have sort of tribes
19 expressing horror stories or bad-case scenarios
20 that need to be addressed in a regulation. So it
21 speaks well of the consultation that's going on out
22 there. So what do you do in that sort of
23 eventuality that you really have a nonclaim? What
24 guidance can you give, what best practice do you
25 wish to see in a Federal land manager?

1 ROSITA WORL: Well, first of all, I mean, we
2 absolutely – I think the manager has to let us
3 know. I mean, we have one situation with our
4 *Kuwōot Yas.éin*, 10,000 year-old human remain
5 ancestor and the managers made the determination
6 that the – that objects that were found in the same
7 area were not associated with the human remains so
8 I didn't even find out about that until later. So
9 they're sitting there as unclaimed.

10 And so we – you know, we definitely need to
11 have some sort of database, some sort of inventory,
12 you know, where we could go to and look and say
13 what is Forest Service holding here, you know, from
14 Southeast Alaska. That's something, you know, we
15 have to know that, and we won't know it unless we
16 have it in some public – you know, some public
17 area.

18 Insofar as its use, I think we should be very
19 clear that there's no use of anything that's
20 associated, unassociated funerary objects. I don't
21 have a problem if it – we can ascertain that they
22 are not – they are other things, you know. If
23 somebody would put a photo up on it, you know, on a
24 website and we could look at it we might be able to
25 identify it and make some sort of action to try to

1 recover those objects.

2 But the greater concern I have right now, one
3 is to make sure that we move on the right path of
4 consultation with our tribes, and having gone
5 through the CUI with how many years with the CUI,
6 let's make sure that we do this one in the right
7 way.

8 Maybe we can't, you know, release these
9 proposed rules yet, but let us raise the topic that
10 the Review Committee is going to be dealing with
11 this issue and really describe what it is and what
12 we're going to be dealing with, and then invite
13 tribes and Federal managers to begin to comment on
14 it now, so that we could get their input. And I
15 liked - I liked Sonia's idea is to, you know, maybe
16 in the audio conference call, this might be a
17 logical thing to do is to hear from tribes about
18 barriers, hear from museums about barriers. And so
19 we would - it would become almost like a hearing
20 for us, and make these audio conferences most
21 productive. So I would like us to think of a
22 process and develop a process where we could start
23 receiving maximum input from museums, Federal
24 agencies, and tribes on this.

25 STEPHEN SIMPSON: Ms. Worl, that's, I think, an

1 excellent suggestion, I just wanted to let you know
2 that the group that's drafting these suggestions
3 and will be drafting a proposed regulation is
4 composed of Federal land managers, so they are
5 intimately involved. But yes, we need to involve,
6 consistent with the – what Congress had in the
7 Statute, we need to do this in consultation with –
8 in extensive consultation with everyone else.

9 DONNA AUGUSTINE: I'd like to add something
10 too. Also, I know that there are some tribes that
11 it is part of their culture that no matter what
12 they don't even speak of the – they don't even
13 speak of the ones that went before them. They
14 don't speak of the dead. And so they will not put
15 forth claims and a lot of times we know that that
16 has happened. And so maybe, maybe somewhere in
17 there, that especially if you know for sure that
18 these remains are uncovered on their land on their
19 territory, maybe we could at least ask these tribes
20 that in the end when all is said and done that if
21 you don't claim the remains back is it okay with
22 you if some other tribe would come in to do the
23 claim and also to do the reburial rather than just
24 stay in like a limbo sort of state, whatever.

25 ROSITA WORL: I think that's an important,

1 Mr. Chair –

2 DAN MONROE: Yes.

3 ROSITA WORL: – an important point to concur
4 with that it, I mean, from my perspective I think
5 the objective should be that all unclaimed at some
6 point in time be reinterred, that they not be held
7 on a shelf somewhere.

8 DAN MONROE: Further comments?

9 MERVIN WRIGHT, JR.: Yeah, just to kind of
10 follow up on that, so if what is unclaimed is
11 claimed that there not be a similar situation like
12 what we heard yesterday in New York, you know, a
13 refusal to acknowledge the information or the
14 supporting documents that support a claim.

15 DAN MONROE: Very good. Thank you all. Thank
16 you for the presentation of the information. Let's
17 take a break for lunch. We'll reconvene at 1:30,
18 at which time we have a presentation to be made by
19 a number of folks from Seminole Nation and others,
20 and please be back at 1:30.

21 **LUNCH**

22 DAN MONROE: Thank you. If we could, could we
23 have all the representatives of the Miccosukee and
24 Navahoo and Ancient Trees please step forward and
25 make your presentation. And if you would begin by

1 introducing yourselves we would very much
2 appreciate it.

3 **PRESENTATION**

4 **INTRODUCTIONS**

5 BOBBY C. BILLIE: My eldest name is (Native
6 American language). That name came the beginning
7 of the Creation, the generation to generation of
8 this point. And the newcomers' name Bobby C.
9 Billie, that's what they call me.

10 DAN MONROE: Thank you.

11 SHANNON LARSEN: I'm Shannon Larsen.

12 DAN MONROE: Thank you.

13 CECIL OSCEOLA: Cecil Osceola.

14 VINCENT JIMMIE: They call me (Native American
15 language). My name is Vincent Jimmie. Traditional
16 name is (Native American language).

17 DAN MONROE: Thank you.

18 BILL HAMILTON: My name is Bill Hamilton.

19 DAN MONROE: Thank you. If you would begin
20 your presentation please.

21 **BOBBY C. BILLIE**

22 BOBBY C. BILLIE: The lady next to me is going
23 to — some written statement because it's not my
24 language, and I can't read or write. And so I ask
25 them to help with some of these things that has

1 been done over the years. And we trust her to help
2 us to speak for our ancestors and that's who she is
3 and that's what she going to do for me. Afterwards
4 after she finish all this reading then we're going
5 to speak about the things happening in Florida.

6 DAN MONROE: Thank you.

7 **SHANNON LARSEN**

8 SHANNON LARSEN: Bobby is passing out some
9 binders that will contain the information that I'm
10 speaking about. I'm sorry that they were not
11 available to you earlier. On the right-hand side
12 of the binder is information that documents the
13 difficulty and why Bobby is here today, one of the
14 reasons, and it dates back to a April 2007 meeting
15 which Bobby traveled all the way to Washington to
16 attend. A University of North Florida curator,
17 Jerald Milanich, at that time requested that a
18 recommendation be made for disposition of ancient
19 relatives and their belongings, that's the wording
20 Bobby prefers to use. So I will use that rather
21 than what is being used. He evidently had been
22 doing this for some time. Bobby went to
23 Washington, and he had a strong opposition and
24 wrote a letter, a copy of that is in the binder in
25 the right-hand side, that he should not be allowed

1 to rebury his ancient relatives and belongings
2 because he is not aboriginal. He is a white
3 archaeologist who actually participated in the
4 removal of those remains back in 1985 through '87.

5 Bobby was strongly opposed to his request also
6 – and I believe three of you on the board here
7 today were present at that meeting – to the taking
8 of samples to be – from those 28-plus ancient
9 relatives to be kept for at least 10 years. He
10 wanted to go ahead and release things for reburial,
11 but he wanted also at the same time to take
12 sampling. Bobby was very strongly opposed to that
13 as well.

14 He indicated that both the Miccosukee and
15 Seminole Tribe were in agreement to the ancient
16 relatives and belongings being brought back to the
17 earth, as well as Bobby. He said that the Oklahoma
18 Seminoles were not involved because they only
19 wanted to be involved with people 1800s and beyond
20 that.

21 During that meeting, the NAGPRA Review
22 Committee made a recommendation indicating – and
23 I'm going to read Bobby's statement which tells –
24 and all of the recommendations and copies that were
25 made are also in this binder – that they should

1 also — that Jerald should also consult with Bobby
2 and what should happen at that reburial of his
3 ancient relatives and belongings. So I'm going to
4 read his statement but just to tell you that there
5 is tremendous sadness surrounding this whole thing.
6 These ancient remains were removed in 1957,
7 somewhere along there. They were loaned out to a
8 university in North Carolina and kept there,
9 analyzed, and studied for almost 20 years, almost
10 20 years, and then they want to bring them back and
11 take more samples.

12 There were mention of beads being found at
13 that site, but nowhere in the request made before
14 the board to return the ancient relatives is there
15 any mention of making the effort to also return
16 those belongings that were with those ancient
17 relatives. This also is very hard for Bobby
18 because they believe everything must go back, no
19 samples, belongings, and ancient relatives all go
20 back.

21 I'm going to read Bobby's statement because,
22 as he said, he doesn't read or write. And some of
23 this is very much his own wording. I have put in
24 the word artifact after belongings so that maybe
25 you understand what he's talking about. A lot of

1 people in the archaeological world do not.

2 "The last time I was in Washington in April
3 2007, the NAGPRA Review Committee was saying the
4 one they call the recognized tribes have a right to
5 work with me at that time, and I thought that was
6 going to work out for the Aboriginal People what
7 they need to do on their own land of their own
8 ancestors. The committee said," – and it's all in
9 here on the right-hand side – "The Review Committee
10 recommends that you consult with the Seminole
11 Tribe, Miccosukee Tribe, and the Seminole Tribe of
12 Oklahoma, as well as the Independent Seminole
13 Nation of Florida," which is the same thing as the
14 Council of Original Miccosukee Simanolee Nation
15 aboriginal people.

16 "But when we got back and tried to communicate
17 with the so-called recognized tribes and Jerald
18 Milanich, the person who is non-Indian trying to
19 bring back those remains, it did not happen what
20 the NAGPRA Review Committee said at that time.
21 Only one person, Tim McKeown, seems to have a say
22 so. Because of that one person, Jerald Milanich
23 seems to have the last say so, what the others go
24 by, and I don't think it is right because he is
25 still non-Indian controlling our ancestors,

1 belongings, artifacts, and trying to study our
2 ancestors' remains and belongings. When the white
3 people put our ancestors back in the ground they
4 think it belongs to them," and that's been evident
5 through the years.

6 "Tim McKeown's statements in his letter at
7 that time to Jerald Milanich, on page 1, 'The
8 Review Committee also recommends that you consult
9 with the Miccosukee Tribe, Seminole Tribe, Seminole
10 Nation of Oklahoma, as well as the Independent
11 Seminole Nation of Florida.'" But on page 2 of Tim
12 McKeown's letter, the term changes somewhat, the
13 wording is changed from "as well as the Independent
14 Seminole Nation of Florida" to the wording "You may
15 also wish to consult with the Independent Seminole
16 Nation of Florida." That little wording changes
17 the recommendation. It gives him a choice whether
18 he wants to or doesn't want to.

19 "I think aboriginal people have a right to say
20 whatever we do with our ancestors, and I need to
21 know what your committee is about, because it
22 doesn't seem to work on behalf of the aboriginal
23 people of their own land and their own ancestors
24 and their belongings and artifacts and all those
25 things. I need for you to explain to me what this

1 committee is about, why Tim McKeown has the right
2 to control everything."

3 "The person, the ones you call unidentifiable,
4 are our ancient ancestors, and they never did see
5 the newcomers. We know who they are, so United
6 States cannot say only recognized tribes can talk
7 about our ancient relatives because we know it's
8 impossible that these people can sign through the
9 United States government that they have been
10 recognized and that only the people who have been
11 recognized by the United States Government can
12 speak for them. It's impossible for them to say
13 that. I know that it's a fact, they have never" –
14 "they have been dead long before the newcomers came
15 into our land. They were never recognized by the
16 United States Government, so we do have a right to
17 speak for them."

18 "No matter what kind of law you make to try
19 and separate us, it's not going to work because we
20 have to" – "because you have to deal with us
21 because you are disturbing our ancestors and our
22 grounds and our sacred sites. So it's not going to
23 work, period. You need to communicate with us and
24 talk with us in order to make things right for the
25 people and land and the future of our life. What

1 we have said has never been changed. We pass it on
2 from one generation to the next generation. It is
3 discrimination of human rights, freedom of speech,
4 and religious rights."

5 I want to also very quickly just say, give you
6 two very quick examples as why I know, I don't
7 feel, I know that ceremonial traditional people
8 must be involved at all times. I have helped Bobby
9 with probably 32 putting back of ancestors, 32
10 sites. Some of the sites contained maybe only 2
11 relatives, some of them 10, 12 or more, some of
12 them over 100 or more, and all of their belongings.
13 Bobby has done this without any money, without any
14 assistance, but every single request that was made
15 was a struggle, was a fight, and was a battle, but
16 he never, ever gave up on a single one of them
17 because he knows they needed to go back into the
18 ground. No matter how hard the archaeologists,
19 preservation officers, Federal government fought
20 him, he's continued to fight with them and get them
21 back in the ground.

22 One of them was a site in Osceola Landfill, in
23 Osceola County, for hundreds of individuals.
24 Ancient relatives, children, mothers, fathers,
25 aunts, and uncles were removed from that site, and

1 many, many belongings. Bobby fought to get those
2 back. He finally met with the manager of Osceola
3 County who finally agreed to stop this. The
4 preservation officer wouldn't stop it. Recognized
5 tribes weren't going to stop it. But sitting down
6 with the county manager he stopped it.

7 It took four days with the help of two
8 archaeologists with Bobby overseeing. He can't
9 touch the remains, as you all probably know, but he
10 was there. He made sure that every single relative
11 was put back with the respect in exactly the same
12 way they took it out. It couldn't happen at the
13 same levels because they used backhoes to remove
14 some of these and it was impossible. When it was
15 finished, everything had to be covered over and the
16 mound restored because of the use of backhoes
17 getting these individuals out. Bobby carefully
18 himself shoveled sand and material that was
19 recovered over top of these. It took several days
20 to do that but he didn't want the backhoe to come
21 in and just dump sand on top of his relatives.
22 That's the care, that's the pain that these kind of
23 people have for their people. Finally, after a
24 level had been reached, more sand was brought in,
25 and the small equipment was used.

1 Four days after that was concluded, Bobby
2 called me and said, Shannon, they have not returned
3 all of the remains. There are remains that didn't
4 go back. And I said, well Bobby, I checked the
5 inventory very carefully, it took days to do that.
6 He said, they haven't given them all back. I
7 called the Division of Historic Resources, spoke to
8 Mr. Jim Miller at that time over and over again and
9 insisted Bobby says that they're not all back. He
10 spoke to the archaeologists. They insisted they
11 had given them all back. I repeatedly told Bobby
12 that and he repeatedly told me, no, they have not.

13 Several months later we got a call from Jim
14 Miller saying that the archaeologist had another
15 whole box of remains and belongings. Had not Bobby
16 been the one to rebury those, had it been a white
17 person, would the white person have known that
18 there were individuals still not back? I don't
19 think so. They would still be sitting in that
20 archaeologist's office I'm quite sure. Though
21 Bobby had to ask them to bring them back and they
22 were put back but they couldn't go back in the same
23 level at that time where they were found because
24 the mound was closed. They had to be put back the
25 best Bobby could have them put back.

1 These kinds of instances have happened over
2 and over. I could name countless ones where Bobby
3 knew that things weren't being done right.
4 Archaeologists at Remington Street were going to
5 just put the sand over the trenches and reburials
6 after Bobby had them painfully, against their will,
7 put them back correctly. There were plastic lying
8 all over the site. There were screens left from
9 the archaeologist. They were just going to cover
10 that, cover the sand over the screen that they used
11 to sift the things and all the plastic and all the
12 debris left behind from the students there
13 studying. Bobby looked at me and shook his head.
14 I knew what he meant, and I said, stop right now.
15 We're not going any further with this. You clean
16 everything out of here, everything. And they were
17 angry, mad, and they tossed things aside and had
18 somebody finally come in and remove them and then
19 the sand was allowed to be put down. Now if you're
20 having white archaeologists there, that's how his
21 relatives would have been reburied. And that's
22 what happened, and that's why he is insistent that
23 there be people with his knowledge and his training
24 there to do these things properly.

25 This was happening in a proper manner, as I

1 said Bobby did over 32 of these, until a change was
2 made in the Seminole Tribe where white people began
3 to be the responsible ones for how these should be
4 handled. And they sent out letters saying that
5 Bobby could no longer participate or consult
6 because he was not a recognized tribal member. One
7 woman, Pat Whitman, went so far as to tell at a
8 consultation meeting that Bobby who was on his way
9 in not be allowed in that consultation room because
10 he was not an Indian. He did not carry a card.
11 These are some of the struggles he goes through,
12 but he has never given up. And those ancestors
13 know that, and they count on him to be there. By
14 now I hope I've given enough background for you to
15 understand his frustration, his hurt, and his pain.

16 **BILL HAMILTON**

17 BILL HAMILTON: My name is Bill Hamilton, and
18 I'm here at the invitation of Bobby Billie. I've
19 worked with him for about – almost 20 years now,
20 with Bobby and Shannon both. I met him at an
21 environmental ethics conference at the Marywood
22 Retreat Center in Jacksonville, and I was there
23 because I was a person who grew up close to St.
24 Augustine on Anastasia Island. And I had seen the
25 area where I grew up being destroyed by

1 development, the places that I learned to hunt and
2 fish and walk in the woods and walk on the beach,
3 those areas were disappearing.

4 And so I went to this environmental ethics
5 conference looking for people who were struggling
6 with those same kinds of issues that I was
7 struggling with. And I met Bobby and Shannon
8 there, and they were also struggling with these
9 same kinds of issues. And what I learned over the
10 years is that the way that human remains are
11 handled and the way the natural world is handled,
12 the way the water cycle is handled, the way
13 people's families are handled, all of those things
14 are bound up. It's all the same issue.

15 And the issue of human remains and sacred
16 sites, you, Ms. Augustine, said that you had this
17 vision, you had this understanding that the
18 indigenous people have something to teach the rest
19 of the world, that the coming together over this
20 issue is important because we of the European
21 descent, we've made a mess of things. We have a
22 lot to apologize for. And the health of the world,
23 all over the world, not just in this area, not just
24 in Florida but everywhere in the world all
25 biological systems are in decline right now. And

1 what we need to come to terms with is how we deal
2 with a world that is in the process of dying.
3 Every biological system in the world is in decline,
4 and the rate of decline is accelerating.

5 So we have a lot to learn, and we have a lot
6 to learn from indigenous people who still
7 understand traditional ways of looking at not only
8 the biology of the world but also how you deal with
9 the people who went – who were here before. As you
10 mentioned, they have something to teach us. We
11 still learn from that. They're still present with
12 us. They're still here with us. And the
13 traditional people, ceremonial people, the people
14 who have held to that way of life and that original
15 law typically are the ones who are not recognized
16 Federal tribal members. They're the ones who said
17 no, we're not going to take on another system of
18 government. We have our own system of government,
19 and we stand for that. And those are the people
20 typically in the United States and the rest of the
21 world that are the ceremonial leaders that you need
22 to deal with and consult with. You can't expect to
23 handle sacred sites and human remains without
24 listening to them, because they hold that
25 traditional knowledge more than anybody else.

1 So my recommendation – and I've been involved
2 in not 32 of the burials, but a lot of the burials
3 including one at the Matanzas Inlet Bridge project.
4 And when the DOT turned over human remains to Bobby
5 there were probably, I don't know, 15 or 20 boxes
6 full of human remains, and we put those back in the
7 pouring rain. It was one of the most – it was a
8 devastating experience to see those people who
9 lived in a balanced and sacred way taken out with
10 bulldozers. And they held fast to the health of
11 the earth, they held fast to the health of their
12 families. And they were ripped out of the earth,
13 and now we all struggle because we don't
14 acknowledge that which they had to teach us.

15 So you can't get away with not dealing with
16 traditional people that are not federally
17 recognized if you want to do a good job. You have
18 to include them, and you have to make the extra
19 effort to find them because a lot of times, as the
20 gentleman who was in the back said, a lot of these
21 people are older. They don't get out much. They
22 don't move to – they don't look to show up at these
23 kinds of meetings. You have to search them out.
24 And if you're the ones who take on the
25 responsibility of these issues, then it's up to you

1 and to you to find these people and to find that
2 knowledge because we're all struggling.

3 I only brought one copy, but I have a
4 statement from the indigenous people in Northern
5 Columbia. Their organization is called
6 Organization (Native American language) and they
7 represent the Kobi (phonetic) people and the Arawak
8 people. It's one of the last intact indigenous
9 cultures that remain after contact with the
10 Spaniards, and they are dealing with the same
11 issues. They are reaching out to indigenous people
12 all over the world. How are you going to deal with
13 your ceremonial sites? How are you going to deal
14 with your sacred sites? How are you going to deal
15 with repatriation issues? Because if you don't get
16 a handle on that and if we don't all learn to work
17 together, if we all don't learn to work with the
18 non-Indian cultures, then the world is going to
19 spiral out of control. And the things that these
20 gentlemen are here to talk about are a matter of
21 life and death, and it's not just for them and for
22 their cultures and for their ancient relatives, but
23 it's for all of us because all - the health of the
24 world is all tied up in all of these issues, and we
25 haven't done a very good job.

1 You should today make it against the law to
2 excavate any human sacred burials, sacred sites on
3 federally owned land. We've made a mistake. You
4 all recognize we made a mistake excavating those
5 human remains and now we're dealing with the
6 problems, but today you could make the
7 recommendation no more excavations. And all of the
8 remains that are now held in museums or in
9 warehouses, you set a time certain these remains
10 need to go back into the earth. And you should
11 criminalize grave robbing. You criminalize it with
12 a severe penalty. That's the other way. It's easy
13 to say we discourage this, but when you criminalize
14 it, then when it's a Federal crime and you enforce
15 that when you stand strong on those Federal issues
16 then you start to make some progress.

17 So we have a bad situation. I believe that
18 you are all of good will here to deal with those
19 issues. But those are my recommendations, and I'll
20 give you this - I'll enter this statement by the
21 indigenous people from Colombia reaching out to the
22 indigenous people all over the world to come
23 together and deal with these issues.

24 **SHANNON LARSEN**

25 SHANNON LARSEN: I just want to say that in the

1 left-hand side also, there's a newspaper article in
2 there about a dig – archaeologists use that word
3 and so I'm using it – that's in a National Park in
4 Duvall County. One of the requests by the
5 Miccosukee spoke about a mound near the St. Johns
6 River. They could have come from the mound that
7 they're digging in. We don't know why the National
8 Park has allowed them to do that. I can't think of
9 any reason why that mound is being dug up and
10 things being removed. It's a National Park
11 Preserve. We've tried to get answers but they're
12 not forthcoming yet. They're no reason for it.
13 Cedar Point, there's burial mounds there. Whether
14 this is one or not, I can't say for sure. We're
15 trying to find out, but anyway they don't have any
16 right to be in there removing the things they're
17 removing now. It's just being used as an
18 archaeological student training ground area.

19 So Bobby is requesting today, and he's going
20 to speak in a moment, for an inquiry to be made
21 because the end of this you'll see all of the
22 emails back and forth with Bobby to Mr. Milanich.
23 He's in China one time. He's in New York another
24 time. He's too busy, too busy to consult with
25 Bobby about these things. The end – the last

1 communication from him was that the Seminole Tribe
2 was going to oversee the reburial. Bobby doesn't
3 know if that's been done, if samples have been
4 taken, or who is doing it. Is it Bill Steel who is
5 in charge of that for the Seminole Tribes, who is a
6 white archaeologist, who dug up half of south
7 Florida? Is he the one that's going to put them
8 back for the Seminole Tribe? No one has informed
9 Bobby of anything. Nobody has consulted with him
10 on anything. All he knows is it's being overseen
11 by the Seminole Tribe. So he is asking for an
12 inquiry to be made on his behalf.

13 **VINCENT JIMMIE**

14 VINCENT JIMMIE: This is my first time here to
15 this meeting. My brother Bobby C. asked me to come
16 here and attend this meeting. To talk about human
17 remains and artifacts it's a very sacred thing, and
18 we just don't go into our sacred land and burial
19 ground. And talking about it, it's the same way.
20 And it's kind of offensive to us. And hearing
21 these people, group of people going in there and
22 taking human remains and artifacts and ceremonial
23 artifacts, it's violating our cultural law. All
24 these things were here before the European came,
25 and these people that passed on they lived by the

1 cultural law. The traditional they practiced,
2 these people were the law of this land. And
3 European came and make their laws, and some of us
4 that law is not the law of this land. It's
5 something you all work with and something you force
6 upon the tribal leaders, and some of the tribal
7 leaders are educated in non-cultural ways. They
8 educated in – they educated in non-Indian way or
9 indigenous way. So some of them have forgotten
10 they culture. So when you ask them about their
11 claim, their artifacts or other materials or burial
12 things, they don't know what to do. They don't –
13 sometimes some of them don't know the ceremonial
14 how to rebury their human remains, so they just –
15 they won't claim it. But I heard some of the
16 tribal leaders on the phone or representative
17 someone willing to work, willing to claim some of
18 the human remains. That sounds encouraging for me.

19 For some of the indigenous people who live by
20 their culture, not affiliated with the government
21 are the ones, the ones that knows how to do the
22 ceremony and how to do – rebury the remains. Human
23 remains, that's something we just don't go out and
24 take. It's – we have to do something else. And I
25 hear you all talked about like it was just the

1 bones, and that's kind of disturbed me. I don't
2 like hearing all this, but it – talk about the
3 tribes, Seminole Tribe, Miccosukee Tribe. When a
4 person passes on, they call me. They don't look at
5 me as a Miccosukee or Seminole Tribe or Independent
6 or Miccosukee Seminole Nation. They see me as a
7 person who knows his culture and can help them, a
8 person that helped the person that passed on.
9 That's how they look at me, and that's what I do.
10 In this state of Florida, that's what I do. Thank
11 you.

12 **CECIL OSCEOLA**

13 DONNA AUGUSTINE: Cecil – how do you say your
14 last name?

15 CECIL OSCEOLA: Osceola.

16 DONNA AUGUSTINE: – Osceola asked me to read
17 this. Okay.

18 CECIL OSCEOLA: I'm not a good reader.

19 DONNA AUGUSTINE: Okay. Where was this – if
20 you can just describe this picture where this –

21 CECIL OSCEOLA: That's me in the picture.

22 DONNA AUGUSTINE: What's the – where is this
23 located at this monument?

24 CECIL OSCEOLA: Oh, Manual Station, that's been
25 Miami and Naples. There used to be a small

1 settlement, but it's just about gone now because of
2 the (comment inaudible).

3 DONNA AUGUSTINE: Okay. There's a picture of
4 him standing in front of this - in front of this,
5 and it says, "The Great Seal of the State of
6 Florida. In God We Trust. 1936 Seminole
7 Conference. On February 22, 1936, this pine
8 hammock was the site of a conference attended by
9 about 275 Seminoles and several representatives of
10 state and local governments. Florida's New Deal
11 Governor David W. Sholtz (1933-37) had aided the
12 state's economic recovery from the Great
13 Depression. Accompanied by members of his cabinet
14 and D. Graham Copeland of the Collier County Board
15 of Commissioners, Sholtz journeyed into the
16 Everglades to discuss with Seminole leaders what
17 the government could do to assist the Indians in
18 those trying times. A ceremonial welcome was
19 followed by conversations in which Gotch Nagoftee,
20 Josie Billie, and Tush Kee Henehe (Corey Osceola)
21 spoke for the Seminoles. The Indians appreciated
22 the offer of aid, but fearing removal from the
23 Everglades gave the governor this reply" - how do
24 you say that in your language?

25 CECIL OSCEOLA: *Pohoan Checkish.*

1 DONNA AUGUSTINE: Which means, "Just leave us
2 alone." And on the bottom it says "Sponsored by
3 the Collier County Historical Society in
4 cooperation with Department of State," and that is
5 - is that 1976 or -

6 CECIL OSCEOLA: 1977, in there, yes. Thank
7 you, Donna.

8 DONNA AUGUSTINE: You're welcome.

9 CECIL OSCEOLA: You know when I was a kid I
10 guess you could say I was just a young punk, about
11 15 or 16, I thought I knew everything. I mean,
12 gosh, when I saw that piece right there - oh,
13 actually Corey Osceola is my grandfather, actually
14 Josie Billie also my grandfather. And again when I
15 talked to him I said, what's this all about? He
16 said the government wants to inhabit our land and
17 take away our rights, and we didn't want that. And
18 he said, that's all the reply we wanted to give
19 them. And I said, why were you speaking for
20 yourself, just leave us alone. He said, I wasn't
21 speaking for myself. You punks need to know what's
22 going on behind you. He said, I wasn't speaking
23 for myself. I was speaking for the land, the
24 swamp, the wetlands, the Everglades, the animals,
25 especially the afterlife. I wasn't speaking for

1 myself. I was covering the whole land. So with
2 that in mind, I understood where he was coming
3 from, but it took me about 30 years after actually.

4 You know, Indians used to roam on this land
5 freely before the settlers came along, freely, left
6 and right, up and down. But now we stuck on this
7 little piece of land called reservation and we call
8 that home. What's wrong with us? What is wrong
9 with us? This whole land is ours. Some of those
10 people die for us, the ones we talking about, those
11 bones. They die for us. Some of them died in the
12 back in the war, maybe 150 years ago, 200 years
13 ago. Some of them died for us, and we want to put
14 them back on our reservation? No, they didn't want
15 to be on the reservation. That's why they were
16 fighting for our land when they got killed. Just
17 leave them there with respect, with dignity. Don't
18 take their bones out of the way and put it on the
19 res. You know, we've been through our own
20 Holocaust, but the government doesn't know that.
21 Maybe we need to stand up a little more and try to
22 yell a little louder. But government need to
23 understand we went through our own Holocaust
24 already.

25 So when you take back these bones back on the

1 res, you taking them back to the Holocaust again.
2 This morning when Ray what's his name was so proud
3 that his bones was coming – ancestor bones was
4 coming back on the res, I wasn't too happy about
5 that. Leave them there. Some of the Indians were
6 proud to be Indians, living off the res. I'm one
7 of them to be honest with you, you know. When I
8 die I hope they don't bury me on the res. Just you
9 know, just put me up along the hammock somewhere.
10 I'll be happy there.

11 But again, you know, we been – you know, we
12 been backstabbed, railroaded – what's that other
13 word I'm looking for – bushwhacked by the U.S.
14 Government, and here we are being on the res still
15 talking about it. Let's leave things alone. Like
16 my grandfather said, just leave us alone.

17 You know, again when Indians died a long time
18 ago, you know, we don't know if they're Cherokees
19 or Navajo or Seminole. We don't know that, but all
20 we know is they were Aborigines like we are,
21 Aborigine. I don't know why you got this
22 recognized tribe trying to stick their – I mean,
23 trying to listen to them instead of listening to
24 the real Indians like us.

25 And Donna, I'm going to get onto you for a

1 minute here, you were talking earlier about some of
2 the Aborigine remains were shipped to a non-Indian.
3 Ain't that what you guys did earlier, about the
4 Miccosukees wanted their bones back but who was
5 sitting here, not an Indian. I didn't see any
6 Indians here. So who were you talking to? But
7 like I say, I didn't see no Indians here. So who
8 were you giving it back to? Those are the kind of
9 things you have to realize in your head. Are we
10 doing this right, or what do we need to do? What
11 do we need to find out? Maybe you're talking to
12 the wrong person. Maybe you need to talk to us
13 like we're telling you. You need to talk to us. I
14 mean, we don't - I'm not saying we have the
15 solution. We're not going to say to do this, but
16 we got to give you some advice.

17 So I mean, let me stop while I'm ahead, as
18 they say. I'm going to turn it to Bobby C. I'm
19 sure he wants to talk a little longer than I do.
20 Thank you.

21 **BOBBY C. BILLIE**

22 BOBBY C. BILLIE: Well, when the beginning,
23 when the Creator create the life on the earth and
24 to each creation give them the way of life is what
25 we call of law, of natural law. Even the waters

1 and fish or trees or grass, all of those things
2 creation by given the directly by Creator give them
3 that life. They gave them that guide. Even the
4 human they create, they gave them that guide the
5 rights to practice their way of life, which is we
6 call the law, the natural law. That's what most
7 Aboriginal people live their own country follow
8 that. When the newcomers came to our land brought
9 these papers it easy to change. You can write over
10 and they change it. You might see things like
11 that, what she says on the papers, and then they
12 take away and they can change it. It cannot be
13 trust, the paper. It cannot be trust, the white
14 people's tongue. It can never tell the truth. It
15 can never tell the things what they have said in
16 front of you. When you turn around they talk about
17 you. They talk things different as present in
18 front of you.

19 We have been studied since arrival of our
20 land. We know these people the beginning of our
21 land when the first step on our land. So that's
22 why as you see this agenda has been put together,
23 and one of our friend from the Navahoo helping us
24 put this together. And as you can see all this
25 information on the papers, and they told us that's

1 the kind of information you need to send so they
2 know what you going to talk about. So there's some
3 papers in there what we have send, two of these
4 papers, but since we're not federally recognized
5 tribe so-called there's no information. It's
6 blank. You have no idea what we's going to talk
7 about, all these thing that talk about the name.
8 That's all it is. That's how they works, and we
9 have been seeing over and over and over, over 500
10 years.

11 So like I said you read the statement says no
12 matter what kind of law the United States has made
13 we're not going to follow it because it's going to
14 benefit them not us. So that's what it is, a
15 statement on the papers. And that's why we're
16 going to stand, as long as they're living on our
17 land, they're the one breaking the law of this
18 country. They're breaking the law somewhere else.
19 I think they come from the Englands. So we know
20 that all that. We not dumb. Maybe we don't know
21 how to read and write but we're not dumb. So
22 you're the one breaking the law of this country and
23 you need to straighten up the facts of the land, of
24 this land because archaeologists go up there. You
25 digging up our people and make money off of it and

1 live and makes a book and getting rich by our
2 ancestors continuously. And that make us madder
3 and madder.

4 Maybe you call us the group but it doesn't
5 matter. We are the people of this land, and we
6 telling you if you not include us what the
7 newcomers do to our ancestors, it's going to be a
8 problem for your future or for you teach your kids
9 of your life because that's what happening now
10 because a lot of people says what the climate
11 change, what happened people getting sick, why
12 peoples going crazy, why these things changes, why
13 crippled person come born into this land. You the
14 peoples doing to yourself and we trying to
15 straighten these things up. And you need to
16 understand what you're doing to yourself, and it's
17 not going to help us what's you doing this. You
18 need to talk to Elders, to traditional people, the
19 connection of this Creation of life to going to
20 guide you in the next future. But this going to
21 guide us, the next future we going to disappear of
22 the earth.

23 So we not against you. We telling you
24 straighten up, wake up, before it's too late. It
25 maybe look good sitting up there but you not

1 helping us. It maybe look good driving a new car
2 or new houses, but you're not helping the future of
3 life. The changes coming because of the written
4 life taken place. They say we have better
5 technologies. We have a better computers. People
6 can't do anything like they used to anymore. They
7 rely on technologies and the machines. You don't
8 see that because you think you making a good things
9 in the future.

10 The God gave us a hand. God gave us a foot.
11 God gave us the land. And that's what all these
12 things come from, all these material come from the
13 earth. It didn't come from the factory. It come
14 from the earth. It come from the natures. All of
15 these things in here, all of these things come from
16 the natures. It disappearing because of all these.
17 God's creation is disappearing. The humans'
18 creation killing the future of life, disturbing our
19 ancestors and they bringing disease, unknown
20 disease.

21 During the battle when the newcomers come into
22 our land they brought the disease, introduced to
23 the indigenous people. The blankets or food they
24 put it into that. A lot of those remains carry
25 that. When they dug them up it open up and go up

1 in the air, and this sickness going back to the
2 people what they have brought in the earlier days.
3 All of these things involved when the archaeologist
4 go out there and disturb the ancient burial grounds
5 or earlier burial grounds. So I will say this to
6 you, stop the archaeologists teaching the next
7 generation of their digging of their young people
8 because papers, newspaper in there that's what this
9 about, teaching your young people they digging up
10 our ancestors.

11 So at this time all you people - I know some
12 of you in here the archaeologists and you are
13 criminal what you doing to our ancestors digging up
14 before they ask us what you going to do to our
15 people. And I think what they said was they have a
16 license to steal and everything they create in this
17 law, the United States law, is the license to
18 steal, and that's what you're putting it together
19 here. And pretty soon they going to take
20 everything away from you and that's what we're all
21 working, you're all working towards that. We have
22 seen this over and over and over. So somehow you
23 need to take control of these project you put
24 together.

25 Like I say, we're not dumb. We have been

1 seeing this to the beginning of arrival in this
2 land, since then they have been lied to us, they
3 have been abuse us, they rape us, and they
4 slaughter us, and they killed us all the time. So
5 those things never been spoke about American people
6 of this land. So it is time it has been spoke, and
7 that's how we see them. So we don't call ourselves
8 a Native American because we don't know who's
9 Americans are. We don't know even where they
10 coming from. So we haven't recognized that
11 Americans yet, until we still studying them. We
12 don't know where they coming from because every
13 different cultures come into this land they call
14 themselves Americans. Either Japanese or blacks or
15 Cubans or Spanish or other cultures, they call
16 themselves American, so we don't really knew who
17 Americans are anymore but we do know who we are.
18 We're not Native American. We are (Native American
19 language). That's who we are. We don't call
20 ourselves Native American at all. So you lose
21 yourself into that.

22 If you – just like I'm surprised the one they
23 call themselves Miccosukee trying to repatriate the
24 – what is it nine individual, nine remains, or I
25 don't know what it was, but I'm surprised to hear

1 that today because we didn't hear anything about it
2 and the one federally recognized tribe of this
3 Florida is the Seminole Tribe and Miccosukee Tribe
4 and those people has white archaeologists in the
5 office. And I don't know, I don't even think they
6 know they repatriate all this stuff what they
7 talking about because individual people don't
8 usually hear all these stuff, maybe the
9 archaeologists in the office of Seminole Tribe or
10 Miccosukee Tribe the one that trying to repatriate.

11 With that I'm not object to it as long as the
12 Indian, indigenous person have responsibility put
13 it back — our ancestors back into the earth. But
14 white archaeologists has responsibility for the
15 tribe to put back. That's against it. It's just
16 not right for me. So I need to find that out who's
17 repatriation this our ancestors to put back because
18 some of the story the person sitting here talking
19 about the history of those people it wasn't right
20 at all. Also the name they name it is also not the
21 right names. It just like Seminole, I don't even
22 know what that means. It's not a language. It's
23 just a sound. The way we call it (Native American
24 language), it's a language. That's how the paper
25 you see, that's how we pronounce it. So we don't

1 even know what that means, the one the people
2 trying to repeat those names, Calusa, whatever they
3 saying before. Some of those things not a language
4 at all. It just a sound.

5 So when we name it ourselves it's a word.
6 It's a language, come from the beginning of the
7 Creation, passed the generation to generation.
8 That's how we knew who they we are – who they are
9 and our ancestors. It's not identifiable. We knew
10 who they are because the people don't understand
11 what their own written – that's why they think it's
12 unidentifiable. That's what they said, and that's
13 why most indigenous people live and follow their
14 language and their cultures and their practice, the
15 one they knew who they are and they knew who the
16 person is.

17 So it's to me – for me it's no way you going
18 to send this paper to me for me to see it because I
19 don't have a address or the phone number because
20 that's how we living when they came to our land
21 because it's not affect us. We don't have to
22 receive the paper all the time. It's – I use the
23 address to contact for him or her. That's how I
24 use it. That's how most indigenous used to live,
25 they don't live by the system of the United States.

1 Those are newcomers' ideas. That's how come it
2 affect us so bad because it's difficult to try to
3 live what they brought us on our land. So if you
4 ignore that you much happier and you much have
5 connection to the natures and to the life what the
6 God have gave you and you much healthier to walk
7 the natures and the mud and to see the fish, visit
8 the fish or the alligators or snakes. All of those
9 things give by Creator. It has something to do
10 with the life of your future. It's importance as
11 you are as your brothers all of those creations.

12 I don't usually carry the book of written
13 papers. I only usually, if I go to the meeting
14 this is my written, my way of life, and that's what
15 I follow. And the eagles told us as long as you
16 need something I'll carry your message across the
17 country. The white egrets, when our people have a
18 law that's been spoken about. Sometimes if it gets
19 broken then they sit there and talks about over and
20 over and over until he gets straight things up, and
21 then they give these to each other. The clearer
22 life, the clearer the air, and the clearer the
23 minds. So that's why I pass it onto you.
24 Hopefully you might clear your mind and you might
25 follow the direction of what God have gave us,

1 based on to the natural law, to make things happen
2 in trying to get rid of this because it's going to
3 carry us down in the future.

4 With that I hope you'll take it seriously and
5 try to include us because we worry about this life
6 of the earth and we going to continue to visiting
7 different people by this message because the
8 (comment inaudible) doing the same thing, trying to
9 educate people to come down what the God have gave
10 us because that's carry us longer than this paper.

11 And then the Elder talked to me at one time
12 says – and then he had a dollar. He gave it to me
13 and said, hold this, and then put it on top of the
14 water. It's floating around and circled around and
15 take the sand, put it on top of the money. He told
16 me to do that. I did that. The money sink down.
17 Then we come back maybe about a month later, the
18 money disappeared and the sand still there. He
19 said, that's how this earth will take care of you
20 but the money will vanish.

21 So that's how we educate. I don't have no
22 white education but I have a lot of education about
23 my ancestors educate me. For 40 years they teach
24 me the things I need to know to pass it onto next
25 generation, because in the white world when they

1 teach you education, only one person. They teach
2 by one person value and then they go out and look
3 for job and trying to survive. But your Elders the
4 education depended on the next future, maybe 2,000
5 years ahead, and that's how they're educate you.
6 So you don't just standing here. You reach out
7 unborn life yet to come. So that's how we've –
8 that's how far we see in this body. So that's how
9 far you need to see to make things what you trying
10 to do of this kind of systems. Don't look at
11 yourself. Don't look at your behind what you have
12 struggled with. It's important is what you're
13 standing now the next 2,000 years for you to head
14 of it to pass it on the same thing you see today
15 make sure that God's creation don't disappear
16 because if we don't do that this kind of structure
17 going to kill the future of life. Thank you.

18 DONNA AUGUSTINE: Can I make a comment?

19 DAN MONROE: Comments, quickly please.

20 **REVIEW COMMITTEE QUESTIONS AND DISCUSSION**

21 DONNA AUGUSTINE: Okay. I was just looking at
22 this letter from Tim McKeown May 31, 2007, to
23 Jerald T. Milanich, and he states on here "Dear Dr.
24 Milanich, Dr. Rosita Worl, Chair of the Native
25 American Graves Protection and Repatriation Review

1 Committee has asked me to respond to your request
2 that the Review Committee make a recommendation
3 regarding the disposition and reburial of the
4 remains of 366 Native American individuals from
5 Tatham Mound, Citrus County, Florida, for which the
6 Florida Museum of Natural History was unable to
7 determine cultural affiliation." And then the
8 letter goes on.

9 I would certainly like -- as a Review Board
10 member, I would certainly like to know what
11 happened as a result of this, you know, what
12 happened to the remains, if they were repatriated
13 and what's happening with that. I feel that as a
14 Review Board we have a right to know about that.
15 And just another thing I'd like to just mention
16 really quickly, and that's when Shannon talked
17 about the archaeological student program, did you
18 mention that it was in a park?

19 SHANNON LARSEN: National Park, yes.

20 DONNA AUGUSTINE: A National Park here in
21 Florida. That's kind of scary because we're
22 talking about NAGPRA, which is Native American
23 Graves Protection and Repatriation Act law. So I
24 feel that somehow those things, I'm glad it's
25 brought up because we're not just dealing with

1 repatriation here. We're dealing with graves
2 protection.

3 And on that note, on 43 CFR 10.7, it's a bit
4 scary now to talk about a central repository,
5 because it's going to make it so much easier –
6 well, maybe not with this, but I'm a bit afraid
7 that remains that are discovered recently, it's
8 just going to make it so much easier for them to do
9 that and then just send them to a central
10 repository.

11 So these are some of my feelings as we're – as
12 I was listening to you, and also I can tell that
13 you spoke from the heart and a lot of it comes out
14 as anger, but I know what that feeling is. A lot
15 of the tribes come here and deep down behind that
16 anger is – deep down is really it's hurt. You hurt
17 for the ancestors and even when you're – even when
18 I could see your mouth shaking. I could see your
19 mouth shaking. I know sometimes when that happens
20 and you get that cold feeling, that's those
21 ancestors coming. And you can't stop your mouth
22 from shaking, because that's when they're there
23 with you.

24 And so, you know, when we talk about our
25 ancestors, we don't need to have a degree or

1 whatever to speak about them because we speak from
2 the spirit. And it must be doubly frustrating for
3 you because you're not recognized, federally
4 recognized. So anyway like I said, somehow I
5 certainly hope that we can help and I just thought
6 I'd bring those things forward. And you're doing a
7 very, very good job, by the way, in the reburials
8 that you do without getting paid and you're feeling
9 the ancestors.

10 BOBBY C. BILLIE: Talking about your contact
11 with the spirits, and I went to her house, and then
12 the next morning we got up and look at the door and
13 we saw the newspaper sitting there. She said, I
14 never received the newspaper before so she went out
15 there and looking through the papers, and she
16 explained to me somebody digging up the one burial
17 ground but I wasn't pay attention, said okay. She
18 put it down, and we sit down and talk. And then a
19 big old wind came through and almost knocked the
20 door down. And I said, okay. Pick up the paper
21 and tell me where it is, and so she told me where
22 it is. And I said let's go, and we went and then
23 this storm came about maybe 40, 50 miles an hour
24 rain.

25 We went through there, got there, and there's

1 the burial site has been dug up before and the big
2 old house on top of the midden, and you're not
3 supposed to dug up because it has been recognized
4 for burial site and there's also a fence around
5 them. And that's what they were digging up, the
6 one archaeologist bring the kids and show they how
7 to teach, they dug up an Indian burial grounds.
8 And when I got there I said - I told them you need
9 to put these things back to the ground, and if you
10 don't we might get into a fight to make you put
11 back into the earth. He said you can't come across
12 this fence because there's a law to tell you not to
13 do. I said, you think the law you got is going to
14 stop me because you the one that break my law. So
15 I jump on the fence and went across fixin' to hit
16 that guy because what they doing was wrong. And
17 they put the plastic bags and the remains and the
18 artifacts. So if you don't do it now, I don't know
19 who's going to die but somebody's going to. So he
20 finally put things back and then covered it back
21 up, and then the weather is clear, nice and
22 sunshine. So it does that. It brings those
23 attention to you.

24 Another time I went to sleep in the same
25 place, and then they came to my dream, the people I

1 know in the past. And they came to me, say we need
2 your help, at that time they talking about
3 Tallahassee. There's plastic after plastic after
4 plastic bag. We're living plastic house. They
5 invited me to go there to see how they're living,
6 and when I was walking around, nothing but plastic
7 over them and then they said it's hard to breathe
8 and we all packed in one place. There's no place
9 to see up there anymore. We need your help to
10 uncover it, put it back to the ground. So after I
11 woke up and since then I been trying to bring my
12 ancestors back to the earth no matter what. I
13 don't care I from the government so-called the
14 federally recognized tribe or not. It is my
15 country and this is my ancestors and that's what I
16 been doing, so that's what I'm going to continue to
17 do that.

18 It's wrong to the newcomers coming to our land
19 and digging up people because those thing we have
20 great respect of all people no matter how old they
21 are, no matter how young they are. We have a great
22 respect for those people. We have ceremonies and
23 we have names. We still carry on their names in
24 our bodies. We are the same people, created the
25 beginning the creation, we are the same people, the

1 body of those people of this time. That's why we
2 said there's no such a thing as unidentifiable of
3 indigenous people, maybe American people, maybe but
4 as long as it's indigenous people, there's no such
5 a thing as unidentifiable. We all come from the
6 earth. We all going back to the earth, and that's
7 what needs to be. Thank you.

8 DAN MONROE: Thank you. Other comments?

9 VINCENT JIMMIE: Can I say something? The
10 unidentifiable human remains, from East Coast to
11 West Coast, from Florida to Alaska, that's Indian
12 territory. All the old burial grounds you dug up
13 and take the bones out, that's indigenous human
14 remains. So it's identifiable.

15 DAN MONROE: Thank you.

16 Are there others who wish to testify?

17 DAVID TARLER: Yes, Mr. Chairman, are you ready
18 to hear them?

19 DAN MONROE: Yes.

20 DAVID TARLER: Then I call Sandra Dong.

21 DAN MONROE: Thank you very much.

22 DONNA AUGUSTINE: Thank you.

23 MERVIN WRIGHT, JR.: Before - Mr. Chairman,
24 before we get off this subject, I would just like
25 to acknowledge Mr. Billie. Thank you. And yeah,

1 we're dealing with this situation across the
2 country. You know, I talked to you earlier about
3 what's going on out in the West, you know, tribal
4 members who are not enrolled in a tribe but yet are
5 lineal descendants and how the regulations trip
6 that process because a tribe out there - there was
7 a gas line being constructed. They got all the
8 easements. They got all the things. They even had
9 a monitor, a tribal monitor out there. But by the
10 time they hit that site, you know, I mean just
11 little things like a five-minute delay in that
12 monitor getting on the site and the intension of
13 having to keep that project going that's all it
14 took.

15 But there was a lineal descendent that knew
16 that burial ground was her family's but that person
17 was not enrolled in a tribe, and so it took three
18 tribes in that area to come together to have to make
19 that claim. But at the same time, we all yielded
20 and let that family take care of that. We stood
21 back and let that family take care of that.

22 And you know, in looking at the letterhead
23 here from the Miccosukee Tribe, two of the members,
24 I share names with you guys, Osceola and Billie,
25 you know, right here. And it's not surprising, but

1 it's just a – it's a – I can understand the
2 politics that sometimes happens out in our country,
3 but at the same time I would hope that as
4 relations, as family relations and as a people that
5 we are, you know, we should acknowledge the
6 responsibility and commitment as you represent, as
7 we all represent. And I know that tribes, tribal
8 councils, you know, like my position, we come under
9 great criticism, come under great scrutiny, and –
10 but it's up to us as individuals to be able to step
11 beyond that and humble ourselves to our past and
12 recognize what our true role is here. And like I
13 said, what we did over there in northeastern
14 California, you know, we stepped back and let that
15 family take care of it, and that's what we did
16 there. In hopes maybe I'd like to talk to you some
17 more after the meeting is over with, you know, and
18 maybe we can do something to try to help you.

19 DAN MONROE: Thank you. Please state your
20 name.

21 **PUBLIC PRESENTATION – SANDRA DONG**

22 SANDRA DONG: Good afternoon. My name is
23 Sandra Dong. I'm from the Peabody Museum at
24 Harvard University, and I'm here to give you a very
25 brief update on the Peabody Museum's NAGPRA

1 implementation in the past year.

2 In Fiscal Year 2009, we completed NAGPRA
3 inventories for 39 individual human remains and 167
4 associated funerary objects under the regulations
5 on future applicability. We hosted five NAGPRA
6 consultation visits by nations from Connecticut,
7 Oklahoma, New York and Montana. Four physical
8 repatriations took place, which accounted for 58
9 human remains, 6 associated funerary objects, and
10 10 unassociated funerary objects. One of these
11 repatriations was funded by a repatriation grant
12 from the National NAGPRA Program.

13 To date, we have completed physical
14 repatriation for 2,906 human remains, 3,821
15 funerary objects, 1 sacred object, 57 objects of
16 cultural patrimony, and 18 items that were both
17 sacred objects and objects of cultural patrimony.
18 We continue to consult with nations across the
19 country and to develop co-curation agreements for
20 traditional care. One of the ways in which we
21 continue these dialogues is through web-based
22 exchanges on the museum's collections website where
23 groups are able to view collections from their
24 areas along with all pertinent provenance and
25 provenience information. That's it. Thank you.

1 DAN MONROE: Thank you.

2 DONNA AUGUSTINE: I just have a quick question.
3 Who is the director of the Peabody?

4 SANDRA DONG: It's William Fash.

5 DONNA AUGUSTINE: Oh, okay.

6 SANDRA DONG: This is at Harvard. There are a
7 few Peabodys.

8 DONNA AUGUSTINE: Yes.

9 DAN MONROE: Thank you. Any questions or
10 comments? Thank you for your report.

11 Do we have others who wish to –

12 DAVID TARLER: Yes, Mr. Chair. I call on Frank
13 Wozniak.

14 **PUBLIC PRESENTATION – FRANK WOZNIAK**

15 FRANK WOZNIAK: I want to give you each a set
16 of spreadsheets that I will talk about.

17 DAN MONROE: Thank you.

18 FRANK WOZNIAK: Hello. I'm Frank Wozniak. I'm
19 the NAGPRA Coordinator for the Southwestern Region
20 of the U.S. Forest Service, and I'm also the
21 National NAGPRA Coordinator for the Forest Service
22 as a whole. What I've laid before you is an update
23 of information regarding collections from National
24 Forest system lands made prior to the enactment of
25 NAGPRA. You've received – the committee received

1 copies previously in 2002 and in 2005. This is the
2 latest updated version of that, and it reflects the
3 situation as of September 30th, 2009. A copy of
4 this was also given to the GAO during the site
5 visit that they paid to us in September in
6 Albuquerque.

7 What you have here is – just briefly is you’ll
8 have the first two pages cover – a compilation of
9 all the statistics for each of the nine regions.
10 There are Regions 1 through 8, 1 through 6 –
11 there’s no Region 7, it disappeared some time ago –
12 and 8 through 10. The other sheets break down by
13 region and then within that, as you can see on the
14 third page, region 1, it breaks it down by forest.
15 So you have a breakdown of the numbers by
16 nationally, by region, and by reporting unit within
17 the Forest Service.

18 You’ll note here that on the second page, the
19 first page is the NAGPRA summary information with
20 unassociated funerary objects, sacred objects,
21 objects of cultural patrimony. Their category –
22 the first category – first listings of those items
23 shows you the total numbers identified by region.
24 The third – the last three columns show
25 repatriations to date.

1 With regard to human remains, you'll note
2 there that there are 6,200. I was suspicious of
3 the number myself when I looked at it that it would
4 turn out to be even, and I added it up 15 different
5 times and it all came out to the same number. But
6 if you get a different enumeration of it and total,
7 please let me know and I — something is wrong with
8 my calculator.

9 Anyway, to date the Forest Service as a whole
10 has repatriated approximately 800 sets of human
11 remains, and you can see there are 16,000-plus
12 funerary objects. This means that there are 5,800
13 sets of remains to be repatriated, and why I'm
14 mentioning that is that in the Region 3 of the
15 Forest Service, which is the area of my primary
16 responsibility, the National Forests in Arizona and
17 New Mexico, we have two pending requests for
18 repatriation in which we are in consultations with
19 the tribes. The first one is from the Tonto
20 National Forest where there are 1,400 sets of
21 remains that have been claimed by a group of tribes
22 in Arizona, what are called the four Southern
23 Arizona Tribes, the O'odham peoples of Central and
24 Southern Arizona. There are four groups of them by
25 tribal designation established by the United States

1 when they established reservations, also the Pueblo
2 of Zuni and the Hopi Tribe.

3 Then we have 3,000 sets of remains from the
4 Coconino National Forest, which I briefly mentioned
5 in May in Seattle, and that is going forward.
6 We're in consultations, and with these numbers of
7 remains, consultations are lengthy. But we are
8 progressing at a pace that is satisfactory to the
9 tribes in all cases.

10 With those two repatriations, which total
11 4,400 sets of remains, which will be ongoing over
12 the next several years, when that is completed
13 there will be 1,400 sets of remains left to be
14 repatriated. And this brings me to the second
15 matter and that is of culturally unidentifiable
16 human remains. Of those 1,400 sets that will
17 remain, 842 are culturally unidentifiable, they're
18 on the Park Service database; 514 of those come
19 from Region 3, the Southwestern Region of the
20 Forest Service. Why I'm mentioning this is that
21 you'll then see that with this we can account for
22 what we have identified. We provide an accounting
23 by reporting unit of the numbers that have been
24 repatriated, and you can see here that if you just
25 include the Coconino and the Tonto National Forest

1 in the State of Arizona, a substantial portion of
2 the total numbers are accounted for in those two
3 presently ongoing repatriations.

4 With regard to the culturally unidentifiable,
5 this whole matter has been discussed repeatedly by
6 this committee and before this committee. Just as
7 an aside, with regard to those culturally
8 unidentifiable remains, the 842, if there were to
9 have been a simple amendment to the statute, the
10 original statute, which would have applied the
11 hierarchy of claim set forth in Section 3, had been
12 applied to all sections of the statute, the Forest
13 Service could have repatriated all of the –
14 virtually all of the culturally unidentifiable.
15 And the reason I can say that is that on an ongoing
16 basis in Arizona and New Mexico, where we have
17 continuing excavations due to no initiative on the
18 part of the Forest Service, 99.5 percent of all
19 human remains ever recovered off of National Forest
20 system lands were recovered as the result of
21 activities of outside parties engaged in activities
22 on National Forest system lands, not for purposes
23 that served the primary purposes of the Forest
24 Service.

25 We have, as an example of this, Mimbres

1 culture, very well-known through the world,
2 particularly unfortunately in the art world. They
3 are the ones who produced between 1000 and 1150
4 these beautiful bowls, ceramic bowls, with figures
5 in the interior. They're the only figure pottery
6 from the Prehistoric Period in the Southwest. We
7 regularly repatriate those remains from that
8 culture under Section 3 to the Pueblo of Acoma, the
9 Hopi Tribe, and the Pueblo of Zuni. We are stymied
10 because of the disparity between the two portions
11 of the Act. I'm just mentioning that as an aside.
12 Are there any questions?

13 ROSITA WORL: Mr. Chair?

14 DAN MONROE: Yes.

15 ROSITA WORL: I don't have any questions, but I
16 would like us to have the opportunity to review the
17 two sections that you cited and let's look at that
18 maybe for our next meeting.

19 FRANK WOZNIAK: I mean, I'm not the first
20 person to discover this. And just as the final
21 thing, please look over this. If you have any
22 questions, just give me a call at area code
23 505-842-3238. That's my office at the Forest
24 Service in Albuquerque, New Mexico.

25 DONNA AUGUSTINE: What was the last four

1 digits?

2 FRANK WOZNIAK: It's 3238. I'm sorry. I would
3 have cards, but I ran out - I exhausted my cards
4 back in September. I had an order in that was
5 supposed to have been delivered two weeks prior to
6 this meeting and it wasn't. And I apologize
7 profoundly for that.

8 DAN MONROE: Thank you.

9 FRANK WOZNIAK: If there are no other
10 questions, thank you for your time and we'll look
11 forward to future occasions to address the
12 committee. Thank you.

13 DAN MONROE: Thank you very much. Are there
14 others?

15 DAVID TARLER: Yes, Mr. Chair, I call Cyd
16 Martin and Fred York.

17 **PUBLIC PRESENTATION - CYD MARTIN AND FRED YORK**

18 CYD MARTIN: Good afternoon. I'm Cyd Martin.
19 I'm Program Manager for Park NAGPRA for the
20 National Park Service, and this is Fred York, the
21 Regional Coordinator for NAGPRA for Pacific West
22 Region of the National Park Service. And we just
23 have a couple of very quick updates for you.

24 I guess first of all I'll go ahead and tell
25 you we just wanted to let you know, especially

1 because some of you have been involved in the
2 issues that are ongoing with Hawaii Volcanoes
3 National Park with the issue of the five summary
4 objects that the park holds, that the park has
5 determined to be unassociated funerary objects.

6 The park consulted broadly with Native
7 Hawaiian organizations. There are 14 claimants who
8 are Native Hawaiian organizations, and those 14
9 claimants are all equally qualified to receive the
10 objects, however they don't agree on the
11 disposition of the objects. So under those
12 circumstances, the park is retaining the objects
13 while the claimants work among themselves to try
14 and come to some accommodation and agreement.

15 Anyway, I just wanted to let you know, Fred
16 and I were both there to help the park in September
17 and the park has gone ahead and hosted a meeting of
18 all the claimants, actually 13 of the 14 came or
19 were represented at the meeting, to try and work on
20 some accommodation. And it was really quite
21 gratifying because the meeting went very, very
22 well, and everyone was very respectful of everyone
23 else, in spite of the fact that there are some
24 great deep divisions in their feelings about what
25 should happen.

1 So I just thought that it was important to let
2 you know that the park is continuing to try and
3 facilitate some kind of agreement amongst those
4 groups. And actually the Native Hawaiian
5 organizations, one thing they are doing is they –
6 one of the organizations stepped forward to – is
7 going to be applying for a NAGPRA grant to help
8 facilitate more meetings among the group to come to
9 some accommodation. So I think – do you have
10 anything else on that, Fred?

11 FRED YORK: Thank you. Good afternoon. As Cyd
12 said, I'm Fred York and I'm the NAGPRA Coordinator
13 for the Pacific West Region, and I think this very
14 brief presentation by both of us is really
15 important as a follow-up to concerns that members
16 of the committee expressed today about knowing what
17 happened to things, especially things that have
18 been brought before you.

19 And this other matter concerns – and I'm
20 speaking on behalf of Superintendent Tracy
21 Fortmann, at Fort Vancouver National Historical
22 Reserve, Vancouver, Washington, north of Portland,
23 Oregon. Last year, those of you who were on the
24 committee at that time may recall that a member of
25 Superintendent Fortmann's staff, Tessa Langford,

1 made a request on behalf of the superintendent for
2 the Review Committee to make a recommendation for
3 disposition of culturally unidentifiable remains,
4 approximately 12 individuals. That presentation
5 was made by Ms. Langford to the committee and there
6 were members of – I just want to parenthetically
7 note as with any other process that's successful
8 and comes to a conclusion, there are many people
9 who play a role in that process, and that includes
10 not only the Review Committee but National NAGPRA
11 and the grant program and also Park NAGPRA.

12 The – in addition to Tessa Langford's
13 presentation on behalf of the superintendent, there
14 was a representative of Cowlitz Tribe, who had
15 successfully competed for a NAGPRA grant, and with
16 that grant, the Cowlitz Tribe put together a
17 consortium of tribes that are associated with the
18 Vancouver Reserve area, and they worked together
19 very diligently and with the park over the course
20 of a full year, and the Cowlitz Tribe and a member
21 of the consortium did a presentation in support of
22 the request. All the members of the consortium
23 sent letters of support. The Review Committee of
24 course made a recommendation to the Secretary of
25 the Interior for disposition. National NAGPRA

1 followed up by communicating with the Secretary of
2 the Interior. The Secretary approved the
3 disposition. Sometime this spring a Federal
4 Register notice was published, and I'd like to
5 report that On October 2nd of this year a reburial
6 took place at Fort Vancouver within the boundaries
7 of the national monument. The tribes and the park
8 worked together in selecting an appropriate area,
9 and reburial took place. And so this particular
10 repatriation has been concluded successfully and
11 reburial has occurred.

12 DAN MONROE: Thank you. Questions?

13 Thank you both very, very much.

14 DAVID TARLER: Mr. Chair, I have no one more on
15 my list.

16 DAN MONROE: Does anyone else wish to make any
17 comment or testimony? Yes.

18 **PUBLIC PRESENTATION - SHANNON LARSEN**

19 SHANNON LARSEN: I'll just say it sitting here;
20 I know you can hear me.

21 SHERRY HUTT: We need you to come to the mic
22 for the record.

23 SHANNON LARSEN: Sorry.

24 SHERRY HUTT: That's all right.

25 SHANNON LARSEN: I'm sitting over here with a

1 heavy heart. I feel that I have failed Bobby
2 because he came here to ask for a recommendation
3 from the Review Committee to make an inquiry into
4 what happened. You did that for the recognized
5 tribe that spoke yesterday, you made a formal
6 recommendation but you're not going to do that for
7 him.

8 I feel I must have failed him in some way in
9 presenting that, and I could not leave this place
10 without asking you why you could do it for the
11 recognized tribe yesterday because consultation
12 sort of fell apart for them and took long. The
13 same thing happened to him and he was - you, last
14 time in 2007, said he should be a part of it. You
15 made that formal recommendation, but yet he wasn't
16 so he wants to know why.

17 DAN MONROE: We will take that under
18 consideration before we adjourn.

19 SHANNON LARSEN: Thank you.

20 DAN MONROE: Thank you.

21 SHANNON LARSEN: I appreciate that because my
22 heart was breaking. Thank you.

23 DAN MONROE: Are there any others who wish to
24 make any comment?

25 Donna, you had made a recommendation earlier

1 that we submit an inquiry to the Florida – is it
2 the state university? What's the agency?

3 DONNA AUGUSTINE: Yeah, it's the state
4 university, right? Florida Museum of Natural
5 History –

6 DAN MONROE: Right.

7 DONNA AUGUSTINE: – at University of Florida,
8 yes.

9 DAN MONROE: Asking for an update on the
10 actions heard –

11 DONNA AUGUSTINE: Yes, of what's happening with
12 that because they need to know.

13 DAN MONROE: – since we made our recommendation
14 to them. Is there any further comment or
15 discussion on the part of the committee?

16 Is it your wish to proceed with that inquiry,
17 the committee's wish?

18 DONNA AUGUSTINE: Yes.

19 ROSITA WORL: Yes.

20 DAN MONROE: Can we have a motion quickly?

21 **REVIEW COMMITTEE MOTION**

22 DONNA AUGUSTINE: I'll make the motion that – I
23 don't know quite how to word this, but that the
24 Review Committee recommend to the Department of the
25 Interior that we contact the – that they contact

1 the Florida Museum of Natural History to find out
2 what has happened with the – I'm not sure how many
3 remains? Do you know the number? Can I just say
4 the remains in question that were – the letter was
5 written on June 11, 2007, and we need a follow-up
6 on that concerning these remains from the Tatham
7 Mound in Citrus County, Florida.

8 DAN MONROE: Is there a second?

9 MERVIN WRIGHT, JR.: Second.

10 DAN MONROE: Any further discussion?

11 All in favor signify by saying aye.

12 SONYA ATALAY: Aye.

13 DONNA AUGUSTINE: Aye.

14 ERIC HEMENWAY: Aye.

15 DAN MONROE: Aye.

16 ROSITA WORL: Aye.

17 MERVIN WRIGHT, JR.: Aye.

18 DAN MONROE: Motion carries.

19 David, you will, I assume, prepare a letter
20 for my signature?

21 DAN MONROE: Yes, Mr. Chair.

22 DAN MONROE: Yes. Thank you very much.

23 **CLOSING COMMENTS**

24 DAN MONROE: Before we adjourn, I ask any
25 member of the committee to make comments and – or

1 any final concluding comments. Rosita?

2 ROSITA WORL: Thank you, Mr. Chair. First of
3 all, I would like to thank the indigenous people of
4 this area for allowing us to come into their
5 country. I can imagine how beautiful it must have
6 been before any kind of development. So it's a
7 real honor for myself as a Tlingit person from
8 Alaska to be here, even though it's a little bit
9 too warm for me.

10 Secondly, I wanted to have the records reflect
11 that - our appreciation to Colin Kippen for his
12 service on the board. I have - I felt that it
13 would be good for the committee to have a Hawaiian
14 on the board, but I also recognize that their
15 situation is very different and I'm very pleased to
16 hear that maybe there is going to be some effort to
17 try to figure out, you know, they have a very
18 different situation where they have organizations
19 that are recognized to participate in NAGPRA but it
20 makes it really very ambiguous when, you know, you
21 just have to have a Native Hawaiian organization
22 that has an interest in Native culture. Maybe it's
23 a little bit more defined than that, but it does
24 make it very problematic and I think it's one of
25 the areas that in our review of NAGPRA 20 years

1 thereafter that we need to address that.

2 The other thing that I'd like to say is that I
3 know the issue of federally unrecognized tribes is
4 a – has been a problematic and ongoing issue for
5 the NAGPRA committee. I am, of course, I know we
6 have conflicts when we try to talk about further
7 recognition of unrecognized tribes. At the
8 national level there are some tribes who may not be
9 as open to it as others. In Alaska, we have always
10 supported the recognition of federally unrecognized
11 tribes, and we support the Hawaiians being
12 recognized as tribes. Again, it's another issue
13 that hasn't been resolved, and even though we say
14 NAGPRA is Indian law, it is also human rights law.
15 So again it's an unresolved area that does need
16 further discussion.

17 I don't think there's an Indian tribe in this
18 nation that would not support the reburial of our
19 ancestors, and I think that's the common
20 denominator between the federally recognized tribes
21 and the unfederally recognized tribes. And then
22 there's the issue of those tribes who don't want to
23 be recognized because they already have their own
24 sovereignty or perhaps they may be recognized by a
25 state. So that complicates it even further, but

1 nevertheless it's an issue that we need to have on
2 the table for discussion. And maybe this 20-year
3 review is the time for it.

4 I also know that – and I respect and honor
5 those tribes that are involved in NAGPRA and who
6 try to do the best thing that they can, even though
7 they may be disposing of or reinterring ancestors
8 who may not be culturally affiliated with their
9 tribe and for those tribes that do that, I have to
10 honor them.

11 The other thing, I think it is worthy that
12 even though I've always said there's been this
13 love/hate relationship I have with myself as a
14 Native person and museums, because museums have our
15 things. They have our at.óow, they have our
16 ancestors, but yet I'm always grateful that they
17 were cared for in I think a respectful way and that
18 they didn't pass into private collections where I
19 may never have had the opportunity to see them.

20 And this love/hate relationship also extends
21 to archaeologists. I haven't always liked what
22 they do, but I think we've come a long way in terms
23 of their developing sensitivities, their
24 understanding of – greater understanding of Native
25 American cultures and belief systems. And I'm also

1 very proud to hear that now we have, you know, some
2 of our own young people who are going into this
3 field. I don't think we have any from Southeast
4 Alaska yet but I am hopeful that someday we will,
5 because I think that then we can truly, really have
6 a partnership between tribes and archaeologists and
7 maybe develop archaeology even further than it is
8 in terms of their understanding of our cultural
9 values. And so I just wanted to acknowledge all of
10 that. I wanted to acknowledge that Sonya and other
11 young people are in the field of archaeology and
12 that they're working to cultivate others, and
13 that's our choice and I want to thank them.

14 Thank you, Mr. Chair.

15 DAN MONROE: Thank you. Other comments by
16 committee members?

17 Let me conclude by thanking first all of our
18 committee members for their hard work. I too would
19 like to recognize Colin Kippen's contributions to
20 the committee over several years. He did a superb
21 job and we appreciate all the work he's done. And
22 all of you who – particularly those of you who came
23 and presented testimony or presented information to
24 the Review Committee. We all understand I think
25 that anytime one deals with law there are

1 frustrations and particularly when the law involves
2 conflicts and contested areas of values that have a
3 very deep and often troubled and unfortunate
4 history.

5 I think that what NAGPRA has accomplished in
6 many ways is to help change those values, to help
7 expand opportunities for people, whether they're in
8 museums or tribes, whether they're recognized
9 tribes or not recognized, to come together and to
10 understand that there are basic values that are
11 important to us all and to respect one another for
12 our differences and at the same time join together
13 in our commonality as human beings.

14 So I thank each of you for spending your time
15 and your effort and for helping us together to
16 correct and to make right what was in too many sad
17 cases a series of wrongs in the past. And we look
18 forward to seeing you again next time, and again
19 from our hearts thank you all very much for your
20 participation.

21 With that we will adjourn.

22 **MEETING ADJOURNED**